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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

In Pro Per

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

RANDY CHAPEL,

CASE NO.

Plaintiffs,

CV 11-04344

PSG

vs.

COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF

UNITED STATES DEPARTMENT OF
EDUCATION,

Defendants.

Plaintiff brings this action for declaratory and injunction relief, alleging as follows:

INTRODUCTION

1. This is an action under the Freedom of Information Act (hereinafter "FOIA"), 5 U.S.C. § 552, et seq., as amended, and the Administrative Procedures Act ("APA"), 5 U.S.C. §§ 701-706. This action concerns the public's right to discover information held by the government and investigate that information in order to understand how the government spends the taxpayer's money to enforce, or in this case, not enforce federal regulations such as 34 CFR § 602, violations of FERPA under 20 U.S.C. 1232g, Section 504 of the Rehabilitation Act of 1973 misrepresentations, felony backdating and regulations about whistleblowers who expose academic fraud. The records sought will be published on several websites, including www.educationalfraud.com and produced to the public media in order to inform America about how the government covers for Margaret Spellings and the Republican administration using hard-earned tax dollars to cover up education fraud that harmed a student and destroyed his family—and affected every student and family across America.

2. This action has been brought due to the failure and willful disobedience by the Defendant, U.S. Department of Education (hereinafter "USDE"), regarding 5 U.S.C. § 552 that

1 requires USDE to produce records that Plaintiff, Randy Chapel, requested. This action is brought
2 against USDE for its failure to reply to the Plaintiff's communications and failed to perform basic
3 due diligence according to the FOIA concerning Plaintiff's requests. This action is brought
4 against USDE for its willful disobedience and failure to produce requested records even after
5 Representative Anna G. Eshoo (CA-14) submitted the same two FOIA requests on behalf of
6 Plaintiff.

7 a. As of August 29, 2011, Plaintiff has received no records even though the statutory
8 period for response and extension granted by Plaintiff have both expired – let alone justify – any
9 lawful basis for withholding records from Plaintiff.

10 b. Under 5 U.S.C. § 552(a)(6)(C)(i), Plaintiff is considered to have exhausted his
11 administrative remedies.

12 c. Through their failure to timely respond, USDE's employees, each of them
13 individually and collectively have withheld records and denied Plaintiff's FOIA request.

14 d. USDE along with its employees have wrongfully withheld the requested records
15 from Plaintiff and shall continue to withhold requested records with ever increasing tortuous acts.

16 3. This action is brought against USDE for failing to produce requested records even
17 after Plaintiff notified the USDE, that he had exhausted his administrative remedies, and thus was
18 required to seek records through federal judicial relief.

19 4. This action is brought against the USDE for its failure and outright disobedience to
20 produce requested records even after Plaintiff notified the USDE concerning the location WHERE
21 to find the records and WHO has access to the records. At all times, Plaintiff attempted and
22 expressed repeatedly willingness to work with USDE, and even offered to pay the salary of a
23 temporary worker to gather the requested records (his mother would cover the costs). At all times,
24 Plaintiff has offered USDE, an overwhelming opportunity to correct their mistakes or omissions
25 regarding their lack of production of requested records. Plaintiff has given USDE an
26 overwhelming opportunity to exercise discretion and expertise in producing the records Plaintiff
27 requested in a sincere attempt to avoid having to resort to this federal judicial relief.

28 5. This action seeks an order declaring that USDE and USDE employees acted
illegally by failing to timely respond to Plaintiff's requests for records, and an order for the USDE
to obey the FOIA and immediately provide the information requested by the Plaintiff. The USDE
has yet to make an initial determination whether it will comply with the request or even to identify
a date by which it will make any determinations, and when Plaintiff can expect all records to be

1 produced. As of the date of this filing, the USDE is well beyond 70 business days in failing to
2 produce any requested records for No. **11-01474-F**, and well beyond 40 business days in failing to
3 produce any requested records for No. **11-01901-F**.

4 6. This action was required and brought against USDE also due to their ongoing
5 campaign and obscene habitual need to continue tortuous actions against Plaintiff and his family,
6 singling him out from all other Americans and refusing him *Life, Liberty and the Pursuit of*
7 *Happiness*. The USDE even went so far as to fail to provide an individualized tracking number to
8 Plaintiff pursuant to Section 7 of the OPEN Government Act of 2007, Pub. L. No. 110-175,
9 "agencies must assign an individualized tracking number to requests that will take longer than **ten**
10 **days** to process, and provide that tracking number to the requester." The Plaintiff had to remind
11 the USDE *twice* of his pending requests in order to obtain a tracking number from the USDE.
12 Plaintiff was forced to notify the President of the United States concerning the USDE's
13 disobedience to the FOIA and that the USDE has failed and refused to produce the records
14 requested under the FOIA.

15 7. Plaintiff alleges that the government will fight at all costs to the bitter end, using
16 limited and hard earned tax money, in order to prevent Plaintiff from obtaining the requested
17 records and to prevent those records from becoming public. Plaintiff anticipates that the
18 government will put up a significant fight to retain and cover up records sought in this action, and
19 sought in subsequent FOIA requests by other third parties, including Plaintiff, due to the very
20 disturbing and embarrassing nature that the requested records will have before the nation. Plaintiff
21 anticipates that the government will continue refusing to produce the requested records, because
22 they reveal unlawful and unethical insider governmental operations against Plaintiff and his family
23 that USDE intended to cover up. Those unlawful and unethical governmental operations also
24 nationally impact other students and families, and the American public has a right to know about
25 them, since they are paying for government to do this.

26 PARTIES

27 8. Plaintiff Randy Chapel is an individual residing in Santa Cruz County and is
28 located within the district in which this action is being filed.

9. Defendant, U.S. Department of Education is an agency of the United States of
America, established by statute, and charged with responsibility for, *inter alia*, the administration
of federal programs, statutes and regulations concerning the education of citizens of the United

1 States of America. The USDE has possession of the records and writings that are the subject
2 matter of the present litigation.

3 CURENT AND FORMER EMPLOYEES OF INTEREST

4 10. Arne Duncan is the Secretary of the U.S. Department of Education and he has the
5 final responsibly for his agency concerning the denial of the Plaintiff's request for information and
6 records. He also has the final responsibly for the ongoing tortuous actions against Plaintiff and his
7 family, which have resulted in Plaintiff's loss of everything he has, including his marriage and the
8 ability to see his 2 ½ year old son which Plaintiff's ex-wife intends to keep from Plaintiff until the
son is an adult.

9 11. Philip Rosenfelt became the Acting General Counsel in the Office of General
10 Counsel (OGC), when Charles Rose left after Plaintiff, Carol Nye-Wilson, Dale Wilson and Joel
11 Chapel filed their Federal Torts Claims Act paper work in early July 2011 demanding over
\$40,000,000.

12 12. Defendant Nancy C. Regan is the former and failed director of the Accreditation
13 and State Liaison (ASL) Unit within the Office of Postsecondary Education (OPE). She was
14 brought in after John W. Barth was removed (see
15 <http://www.insidehighered.com/news/2007/01/29/barth> "What causes concern in this case is the
16 fear that someone who was tough but fair will be replaced with *someone who is tough and*
unfair.")

17 13. Kay Gilcher is the new director of the Accreditation Group (hereinafter "AG"),
18 formally known as the Accreditation and State Liaison (hereinafter "ASL") Unit, charged with
19 among other things, to deal with the mess that was created by Chuck Mula, Nancy C. Regan,
20 Cheryl Oldham, Margaret Spellings and others, as described in this action. The AAEU is within
21 the Office of Postsecondary (OPE).

22 14. Carol Griffiths is an employee within the Accrediting Agency Evaluation Unit
23 (hereinafter "AAEU") and she works within the ASL/AG.

24 15. Chuck Mula is an *ethically questionable* employee within the AAEU and works
25 within the ASL/AG. He was the "investigator" assigned to Plaintiff's complaints in 2007-2008. It
26 is known that in 2003, the Office of Inspector General (hereinafter "OIG") had found that the
27 AAEU did not meet the minimum level of quality for management controls and that AAEU's
28 reliance on individual specialists may impact the quality and thoroughness of the evaluations, as
well as the integrity of the process. Chuck Mula is known to have acted with questionable ethics

1 (34 CFR §73) and has and continues to cover for himself and others by withholding records for
2 which he is the gatekeeper. Current senior USDE has been made aware of Chuck Mula's actions
3 and withholding of records.

4 16. Edgar Mayes is the Director of Correspondence and Communications Control Unit
5 in the Office of the Secretary (OOS). Edgar Mayes was the employee who received and
6 acknowledged communications sent to Arne Duncan from both Plaintiff and his mother during the
7 summer of 2010, when Plaintiff was pushed to the point of suicide.

8 17. Margaret Spellings is the former Secretary of the U.S. Department of Education
9 who proceeded to cover up her own failures and negligence and those of her administration in
10 2008 to the direct damage of Plaintiff in August 2010. The damage that is now inflicted upon
11 Plaintiff cannot be undone. Plaintiff alleges this mess always comes back to the scandalous
12 Republican administration under Margaret Spellings who prostituted themselves into this mess
13 apparently thinking they would get away with near murder that the USDE intended the public and
14 the Plaintiff to never discover. This action is a result of the ongoing need to cover for Spellings.

15 18. Cheryl Oldham was Acting Assistant Secretary for Postsecondary Education while
16 also serving as the Chief of Staff to the Under Secretary of Education in 2008. She left to later
17 become a consultant at the company owned by Margaret Spellings. She is now Vice President for
18 the Institute for a Competitive Workforce at U.S. Chamber of Commerce, which is sponsored in
19 part by Corinthian Colleges, Inc. It was Corinthian that was hit with a judgment in 2007 for \$6.5
20 million dollars by the State of California for civil wrongs against students and family members,
21 including using settlement agreements to gag students and their family members to prevent them
22 from complaining to the government or saying anything against Corinthian. The judgment
23 protected students and family members from being forced to pay liquated damages to Corinthian if
24 the students or family members filed complaints to the government, and from being gagged
25 regardless if they had legal representation at the time of signing any settlement agreement, among
26 other things. Cheryl Oldham and others within the scandalous Republican Margaret Spellings
27 administration, including Spellings herself, the Association of Theological Schools in the United
28 States and Canada (hereinafter "ATS") and Northwest Commission on Colleges and Universities
(hereinafter "NWCCU") appear to care less that the People of California believe is wrong to force
students and families into unethical settlement agreements that are intended to cover up civil
wrongs by schools. Spellings, ATS, and NWCCU have now gone to the point to agree that

1 unethical settlement agreements can be used to earn an education and retain previous educational
2 credits.

3 19. Kent Talbert was General Counsel during the Republican era of Margaret
4 Spellings. Plaintiff and his family sent many communications to Talbert, and to this day, USDE
5 has produced none of those records requested by Plaintiff.

6 20. Regina Miles works within the Family Policy Compliance Office (hereinafter
7 "FPCO"), which oversees FERPA. She came into light when Plaintiff brought up once again the
8 FERPA violations of Western Seminary. Ms. Miles talked of Plaintiff filing complaints and was
9 willing to look into overcoming the 180 days limit for complaints. But was later informed that
10 due to Republican era of Margaret Spellings, schools can use unethical settlement agreements that
11 are intended to cover up civil wrongs by schools, and force students to not complain. Thus
12 Western Seminary could violate FERPA at will against Plaintiff and Plaintiff was barred from
13 filing complaints to the FPCO under the threat that Plaintiff pay Western Seminary, Steve Korch,
14 Gary Tuck and Lynn Ruark \$10,000 per occurrence for having done so. This was accepted by
15 Margaret Spellings herself.

16 21. Charles Rose was General Counsel during the first part of the Arne Duncan
17 administration, and he left that position in early July 2011 after the Plaintiff's Federal Torts
18 Claims Action paperwork was served on USDE, which demands over \$40,000,000.

19 JURISDICTION AND VENUE

20 22. This Court has subject matter jurisdiction over this action and personal jurisdiction
21 over the parties pursuant to the FOIA, 5 U.S.C. §§ 552(a)(4)(B). This Court also has federal
22 question jurisdiction pursuant to 28 U.S.C. § 1331 and 5 U.S.C. §§ 701- 706. Plaintiff has his
23 principal place of resident in this district, and thus venue is proper in this district pursuant to 5
24 U.S.C. §§ 552(a)(4)(B).

25 FACTUAL ALLEGATIONS

26 Recent FOIA History with USDE

27 23. In October 2010, Plaintiff filed a request for records, which was given tracking No.
28 **11-00068-F.** (Exhibit A).

29 24. USDE has repeatedly *gamed* Plaintiff (and his mother) over the years. At this
30 point, USDE appears to have elevated *gaming* Plaintiff to the level of a sporting event for the
31 purpose to amuse themselves at the cost of Plaintiff and his family. This was noted on June 27,

1 2011, to Bennie Jessup, the EDFOIA Manager, Arne Duncan, then General Counsel Charles Rose,
2 President Obama and U.S. Attorney General Eric Holder. (Exhibit B).

3 25. In the June 27 letter, Plaintiff noted the ongoing *game playing* regarding FOIA
4 request **11-00068-F**:

5 a. On June 21, 2011 Bennie Jessup noted, "The FOIA Service Center concluded as of
6 May 16, 2011 that FOIA Case No. 11-000068-F was officially closed upon notification from the
7 following offices: OIG, FSA, OGC, OPE, FERPA and OCR." Apparently, the Office of the
8 Secretary, the Office of the Under Secretary, and Office of the Deputy Secretary did not respond
9 to Ms. Jessup, and they intentionally withheld records from Plaintiff.

10 b. On May 5, 2011 (received May 10, 2011) Bennie Jessup claimed, "*On March 17,*
11 *2011 your case was officially closed*" which makes the June 21, 2011 letter all the more interesting
12 as authored by Bennie Jessup and put forth as true by USDE and its employees.

13 c. On May 6, 2011 (**postmarked May 3**), Plaintiff even received a letter from Bennie
14 Jessup that was backdated to March 17, 2011, that also claimed the case was closed and "*all other*
15 *offices notified FSC that there were no documents*" which makes the subsequent letters all the
16 more questionable.

17 d. Plaintiff also noted the intentional withholding of materials by the USDE and its
18 employees that contradicted and conflicted with the various claims by Bennie Jessup. Bennie
19 Jessup claimed on behalf of USDE, it would have to "create" records based on the request, and
20 USDE thus refused to produce anything further. Ironically, and known to USDE at the time, the
21 OIG, FSA, and OCR produced document responses to Plaintiff. In the case of OCR, they
22 provided two batches of materials totaling over 300 pages. None of the documents OCR sent to
23 Plaintiff were indexed as Plaintiff's FOIA requests asked. The OIG sent Plaintiff screen shots the
24 OIG created. The OIG also noted a link from the ed.gov website concerning the 2003 audit of the
25 AAEU that pointed out similar failures of the AAEU and USDE relationships, and their
26 negligence that Plaintiff and his family experienced and caused consequential suffering to Plaintiff
27 and his family. The FSA office claimed *no documents existed* regarding Plaintiff's student loans,
28 but created a one-page screen shot that showed Western Seminary was still receiving Federal Title
IV money, even after Plaintiff blew the whistle to the USDE that Western Seminary lied and
tricked OCR/USDE in 2005, during a federal investigation concerning Section 504 fraud by
Western Seminary, Lynn Ruark, Steve Korch, Gary Tuck, Matt Tuck, Bert Downs, Randal
Roberts, Rob Wiggins and the Board.

1 e. The USDE produced materials it thought at the time were of no interest and had
 2 little value. As it turned out, the documents USDE produced to Plaintiff exposed a string of
 3 serious and negligent acts by USDE and its employees. The USDE and its employees then failed
 4 to produce any additional records requested by Plaintiff, and since then, they have continued to
 5 amuse themselves by giving the Plaintiff the run-around. Withholding those records that Plaintiff
 6 requested shows willful and knowing forethought that the materials are *damning* to the USDE of
 7 which the USDE is well aware. Thus, by not producing records, the USDE obstructed Plaintiff's
 8 ability to know all claims to file against the USDE and possible individual employees at this point.

9 26. Plaintiff's letter dated June 27, 2011, was written and mailed by Plaintiff as a result
 10 of Bennie Jessup's letter dated, June 21, 2011, that purportedly aimed to deal with Plaintiff's letter
 11 dated, April 4, 2011, that was sent to both President Obama and U.S. Attorney General Eric
 12 Holder. (Exhibit C).

13 27. Plaintiff contacted U.S. Senator Dianne Feinstein for help to cause the USDE and
 14 its employees to produce materials. Further production games continued by the USDE.

15 28. The USDE has not responded to the letter to the USDE from Dr. Dale Wilson,
 16 MAJ, U.S. Army (Ret), dated May 31, 2011, that he also sent to President Obama and U.S.
 17 Attorney General Eric Holder concerning the ongoing withholding of records from Plaintiff,
 18 Wilson, and his wife, Carol Nye-Wilson by the USDE and the EDFOIA Office. (Exhibit D).

19 **Accreditation is a Failed and Dysfunctional System in America and**

20 **ASL/AAEU has a History of Failure the USDE is Covering Up**

21 29. Records Plaintiff seeks betray a history of failures within USDE that have
 22 culminated in the outright destruction of Plaintiff's Life, Liberty, and Pursuit of Happiness.
 23 Rather than administratively dealing with the long-standing problems inherit within the
 24 dysfunctional AAEU/ASL/AG, the USDE seek to continue offloading their problems by
 25 concealing them and the destructive consequences of their actions that impact the Plaintiff. By
 26 withholding records Plaintiff has requested, the USDE are continuing to attempt to cover up their
 27 negligent government actions that have forever damaged Plaintiff's life and the lives of those
 28 around him.

30. USDE also seek to cover up their actions and the outcomes of their errors and
 omissions in order to prevent the public and the Plaintiff from discovering the unknown depth of
 the USDE unethical acts. USDE will stop at nothing to insure that Plaintiff and the public do not
 learn what educational insiders in the USDE already know – including and not limited to the facts

1 that accreditation is a failed and a dysfunctional system in America; that hard-earned tax money is
 2 propping up failures within the USDE that the USDE want kept quiet and concealed from the
 3 public view; that hard-earned tax money is being used to personally damage Plaintiff for having
 4 not accepted the *status quo of the academic fraud* that the USDE, and former USDE employees
 are so willing to embrace.

5 31. In 2002, George Leef and Roxana Burris of the American Council of Trustees and
 6 Alumni (hereinafter "ACTA") spoke out about the dysfunctional accreditation system in America.
 7 ACTA publically questions the assumption that accreditation is a *proxy for quality*. The ACTA
 8 notes there is little evidence that accreditation is a reliable *quality* indicator. According to the
 9 ACTA findings:

10 "Although accreditation is usually justified as a means of giving students and parents an
 11 assurance of educational quality, it is important to note that the accreditors do not endeavor
 12 to assess the quality of individual programs or departments. The visiting teams do not try
 13 to check on the quality of Professor Smith's English Composition class or that students in
 14 Professor Jones's American history class actually have learned important facts about
 15 American history. The accreditation system is not based on an evaluation of the results of
 16 an institution, but rather upon an evaluation of its inputs and processes. If the inputs and
 processes look good, acceptable educational quality is assumed. It is as if an organization
 17 decided which automobiles would be allowed to be sold by checking to make sure that
 18 each car model had tires, doors, an engine and so forth and had been assembled by workers
 19 with proper training— but without actually driving any cars." (Exhibit E).

20 32. Indeed, the USDE is intentionally withholding records that it knows either don't
 21 exist or to which USDE during the Republican Margret Spellings administration along with ATS
 22 and NWCCU simply made up with no supporting published policy or federal regulation in order to
 23 undermine Plaintiff's civil rights and two civil cases.

24 33. The AAEU is known as a FAILED UNIT as noted by the 2003 *OIG Audit* by the
 25 USDE's own Inspector General (OIG). (Exhibit F). The USDE is doing its best to cover this up
 26 and the further implications that the USDE and AAEU have not taken corrective actions to resolve
 and fix inherit problems within the USDE.

27 34. The 2003 *OIG Audit of AAEU* claims the audit was completed to ensure "that
 28 accrediting agencies recognized by the Secretary ...take consistent enforcement action when
 institutions are not in compliance with the standards." (OIG cover letter). No Corrective Action
 Plan was provided by the OIG.

35. OIG Notes:

1 a. The Accrediting Agency Evaluation Unit (AAEU), within the U.S. Department of
 2 Education, Office of Postsecondary Education (OPE), needs to improve management controls over
 3 its evaluations of accrediting agencies recognized by the Secretary. The improvements are needed
 4 to ensure that the accrediting agencies have established standards to address institutions' success
 5 with respect to student achievement and measures of program length, and that the agencies
 6 monitor adherence to the standards and take enforcement action when institutions are not in
compliance with the standards.

7 b. AAEU did not meet the minimum level of quality for management controls as
 8 defined in the General Accounting Office publication *Standards for Internal Control in the*
 9 *Federal Government* (GAO's *Internal Control Standards*), dated November 1999. Thus, there is
 10 no assurance that AAEU evaluated accrediting agency standards and procedures in a consistent
and effective manner.

11 c. AAEU has limited written procedures and other guidance and does not require
 12 specialists to fully document their evaluations.

13 d. We also found that AAEU specialists did not report limitations and weaknesses
 14 noted in OIG reviews conducted at individual accrediting agencies.

15 e. AAEU has no documented supervisory review process and relies on individual
 16 specialists' evaluations and decisions for recognition recommendations. AAEU's reliance on
 17 individual specialists may impact the quality and thoroughness of the evaluations, as well as the
integrity of the process.

18 f. AAEU does not contact other Department units, state licensing agencies, or other
 19 agencies as part of the evaluations. Direct contact with these agencies and Departmental units
 20 could alert AAEU specialist to weaknesses in accreditation standards and the accrediting agency's
 21 procedures for monitoring and enforcing its standards at accredited institutions.

22 g. We also recommend that the Assistant Secretary ensure that AAEU develops and
 23 implements additional written procedures for its specialists to use in conducting evaluations of
accrediting agencies and takes other actions to improve its management controls.

24 36. USDE's negligence of duty has been ongoing since 2003. The materials the
 25 USDE is fighting to not produce and intends to never produce and cover up at all costs with
 26 taxpayer money show that Chuck Mula, the investigator, and others in the AAEU/ASL/AG were
 27 negligent and working *insider deals* with the accreditors, while at the same time covering up the
 28 negligence of the USDE under the Republican Margaret Spellings administration.

1 37. The materials the USDE will continue to fight to not produce in order to cover up
 2 at all costs show that the AAEU/ASL was not in compliance with Circular A-123 on Management
 3 Accountability and Control (June 21, 1995) by the Office of Management and Budget (OMB)
 4 (Page 7 of the audit). The lack systematic and proactive measures by the AAEU/ASL as also
 5 noted by the 2003 *OIG Audit*, shows that **laws and regulations are not followed by the**
 6 **AAEU/ASL**. Rather, records being withheld betray the fraud the Republican Margret Spellings
 7 administration also took part in while using public money rather than the Republican Margret
 8 Spellings administration acting proactively to protect against fraud, waste and mismanagement as
 they were mandated.

9 38. As noted from pages 7 and 8: **The AAEU Has Limited Written Procedures and**
 10 **Other Guidance for Use in Conducting Evaluations.** AAEU's *Checklist for Analysis of*
 11 *Accrediting Agencies' Petitions for Recognition* Is Inadequate for Reviews of Accrediting
 12 Agencies' Standards. The Checklist provided specialists with little, if any, guidance for evaluating
 accrediting agency standards. The regulation at 34 CFR § 602.16(a) states -

13 The [accrediting] agency must demonstrate that it has standards for accreditation... that are
 14 sufficiently rigorous to ensure that the agency is a reliable authority regarding the quality
 15 of the education and training provided by the institutions and programs it accredits. The
 16 agency meets this requirement if— (1) The agency's accreditation standards effectively
 address the quality of the institution or program in the following areas.... [Emphasis
 added.]

17 The regulation at 34 CFR § 602.21(a) states –

18 The agency must maintain a systematic program of review that demonstrates that its
 19 standards are adequate to evaluate the quality of the education or training provided by the
 20 institutions and programs it accredits and relevant to the educational or training needs of
 students.” [Emphasis added.]

21 The materials the USDE will fight to not produce and cover up at all costs show that the
 22 AAEU/ASL was a failure in its oversight of accreditation agencies. This is particularly important
 23 given ATS stated the degree offered to Plaintiff had the same objectives as the traditional Master
 24 of Theology degree offered by Western Seminary for *quality assurance*. In fact and in truth, the
 25 *degree objectives* require “*substantial compliance*” to demands that violate federal, state and
 26 decisional laws, such that in order for Plaintiff to receive an education or recoup his 81 masters
 27 degree credits he had already earned, he must agree to forever conceal the “finger-banging, penis
 28 exposing, evangelical pedophile” conduct by Pastor Steve Korch, conceal Western's violations of
 Section 504 concerning Matt Tuck, Gary Tuck, Bert Downs, Lynn Ruark, Randy Roberts and Rob

Wiggins, conceal various other state and federal criminal and civil law violations that carry jail time including felony backdating of records, and if Plaintiff (or his mother) said anything, Plaintiff (and his mother) would have to pay liquidated damages of \$10,000 per occurrence to Steve Korch, Lynn Ruark, Gary Tuck and Western Seminary – *because they are victims*. Western Seminary, Lynn Ruark, Gary Tuck, Steve Korch and their attorneys not only demanded Plaintiff to cover for the penis exposing pastor to receive an education, which Plaintiff would later learn the court had already found is against public policy and cannot be forced upon someone a settlement agreement, but to be gagged forever and not file any complaints, should – as Plaintiff would later learn -- of other illegal activities and civil wrongs by Western Seminary, Lynn Ruark, Gary Tuck, Steve Korch in the future. It is these sorts of *degree objectives* and the associated *quality of education* that is considered **valid** and **approved** by the Republican Margret Spellings administration, ATS and NWCCU.

39. As noted from page 11, the OIG quoted the HEA§ 496(n)(4) requiring “[t]he **Secretary shall maintain sufficient documentation to support the conclusions reached in the recognition process.**” GAO’s *Internal Control Standards* states that “all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination” and that “[a]ll documentation and records should be properly managed and maintained.” The *2003 OIG Audit* clearly notes that the AAEU report failed to address two regulations regarding an accreditation agency under review: 34 CFR § 602.22 Substantive Changes and 34 CFR § 602.20 Enforcement of Standards. Like in the case found in the *OIG Audit*, the AAEU/ASL was negligent in overseeing 34 CFR § 602.22 Substantive Changes and 34 CFR § 602.20 Enforcement of Standards for both ATS and NWCCU and continues to cover this up to this day with other FOIA requests, which have been made by Plaintiff’s mother, Carol Nye-Wilson. (Exhibit G). These failures by USDE have irreparably harmed Plaintiff and USDE wants to cover up any knowledge of this. USDE refuses to make documentation readily available for examination as per the GAO standards.

40. Continuing on page 11, the *Audit* clearly notes that “**Secretary shall maintain sufficient documentation to support the conclusions reached in the recognition process**” and “**all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination,**” yet while these requirements have been placed on USDE, USDE is **unwilling** to make readily available for examination any records to Plaintiff or other third parties who have asked for them. Instead, USDE, would rather

1 *joy ride* the court system by obstructing justice and withholding said records from everyone—
 2 especially from Plaintiff and his family who the USDE damaged, and those documents the USDE
 3 are withholding are evidence of that fact.

4 41. As noted from page 19, the OIG clearly stated: **“We concluded that AAEU does**
 5 **not have sufficient management controls to provide a reasonable level of assurance that**
 6 **accrediting agencies established the required standards, ensured that accredited institutions**
 7 **adhered to established standards, and took consistent enforcement action when institutions**
 8 **were noncompliant.”** USDE and other USDE negligence and cover up runs deep. Records being
 9 withheld betray the fraud and negligence the Republican Margret Spellings administration took
 10 part in and covered up with public money.

11 42. Instead of fixing its problems, the USDE appears to prefer to damage students and
 12 families. Many could not help but notice, what the dysfunctional accreditation system in America
 13 has become. On May 4, 2007, now retired administrator Alan Contreras of the Oregon Office of
 14 Degree Authorization, a unit of the Oregon Student Assistance Commission stated:

15 “The feds are trying in a very crude, clumsy way to transform accreditors into things that
 16 they were never intended to be and *cannot* be effectively: enforcement arms of the federal
 17 government. If the federal government wants to impose standards on schools that want
 18 federal aid, fine. Standards must be met for most federal aid, and that is as it should be. But
 19 the feds should not hide behind a third party in a shotgun wedding, when the bride would
 20 rather be anywhere else and the children think their new daddy is made by Frankenstein.”
 21 (Exhibit H)

22 The USDE used ATS and NWCCU not only to cover up the USDE’s own failures concerning
 23 enforcement of 34 CFR §§ 602.20/ 602.22 and USDE negligence, but also to cover for ATS and
 24 NWCCU who were known by USDE at the time, being used against Plaintiff and any complaints
 25 filed to the USDE – a direct conflict of interest 34 CRR § 602.15(a)(6).

26 43. Once again the American Council of Trustees and Alumni looked into what, if any
 27 changed had occurred since their 2002 study. On July 1, ACTA published a policy paper titled,
 28 “Why Accreditation Doesn’t Work and What Policymakers Can Do About It.” (Exhibit AA). It
 notes:

- a. “Nothing in the accreditation process concretely measures student learning,
 instructional quality, or academic standards... If the accrediting process were applied to
 automobile inspection, cars would “pass” as long as they had tires, doors, and an
 engine—without anyone ever turning the key to see if the car actually operated.” p. 6.
- b. “... a school with low, mediocre, or even **eccentric goals** could be judged to be of
 acceptable educational quality so long as the school was meeting the goals it set for
 itself.” p. 7.

c. "The historic collegiality between accrediting associations and their members has resulted in a system that is virtually unknown to the public. Institutions would be more apt to prevent serious weaknesses from developing, especially academic ones, if they knew that *they would be exposed to public scrutiny.*" p. 17.

44. Plaintiff alleges, and as bizarre as this sounds, by the first week of August 2008, the Republican Margret Spellings administration "*agreed*" because Western Seminary's accreditors ATS and NWCCU (whom Western Seminary pays money to be "accredited") supported Western Seminary that "*quality accredited education*" can be "*earned*" and previous educational credits can be "*retained*" by Plaintiff *only if* Western Seminary's criminal enterprising with others is covered up. In fact, such should be acceptable to any other school, as all the 3rd party school should be concerned with is if Western Seminary is accredited – a point that confronted the University of Edinburgh, School of Divinity. At no time could they be told that Plaintiff's "*accredited*" Master of Divinity degree actually was based on:

a. Western Seminary, Lynn Ruark, Rob Wiggins, Randy Roberts, Bert Downs, and the board's *intentional misrepresentations* to the Office for Civil Rights regarding the school's compliance with Section 504 during the federal investigation in 2005 (18 U.S.C. § 1001),¹ by backdating documents (Ca Penal Code § 134)² in order to claim they were in compliance with Section 504 and still eligible to continue federal Title IV funds to the school. Western Seminary, Steve Korch, Gary Tuck, Lynn Ruark, Randy Roberts, Rob Wiggins and the school's board used the March 14, 2006 Settlement Agreement to gag Plaintiff and Carol Nye-Wilson from ever exchanging information with the Department or filing complaints or telling anyone ever, under Western Seminary's threat that Plaintiff would lose his 81 accumulated credits and two masters degrees, and Plaintiff (and his mother) were required to pay Western Seminary, Lynn Ruark, Gary Tuck and Steve Korch \$10,000 per occurrence.³ USDE has taken the position that education can be earned, schools can gag whistleblowers from coming forward, and schools can threaten and charge students (and families) who complain about fraud in order to prevent students from receiving or earning degrees from their accumulated credits, as an acceptable means to control students and their families about criminal enterprising by schools.

¹ 18 U.S.C. § 1001 provides for a fine of up to \$10,000 or imprisonment for not more than five years, or both, for making a "*false, fictitious or fraudulent statement or representation*" to a federal agency [18 U.S.C. § 1001 (2000), amended by Act of July 27 2006, 18 U.S.C.A. § 1001 (West Supp. 2006)].

² California Penal Code § 134 provides that any person who ante-dates a record with the intent to produce it or allow it to be produced for any fraudulent or deceitful purpose, as genuine or true is guilty of a felony.

³ See *People v. Corinthian Schools, Inc. Los Angeles County Superior Court Case No. BC374999* for judgment against such position.

b. To prevent Plaintiff and his mother from telling the **Internal Revenue Service** or the **California Franchise Tax Board** that Western Seminary, Rob Wiggins, Randy Roberts, Steve Korch, Lynn Ruark, Gary Tuck, Bert Downs with Jonathan Radmacher (Oregon Bar No. 924314), Linda McPharlin (SB No. 71917), Ellen Hung (SB No. 216821), Andrew Adler (SB No. 56415) and retired Superior Court Judge Leonard Sprinkles (SB No.58369) concocted an unwritten agreement that Steve Korch would receive \$25,000 from Western's 501(c) non-profit general fund of charitable donations and federal student aid money to avoid paying taxes (Money Laundering 18 U.S.C. § 1956, 1957). USDE knew back in 2008 about this cover up with various claims about how the money ended up in the hands of the "finger-banging, penis exposing evangelical pedophile" pastor Steve Korch who was the Executive Dean of Western Seminary, but instead the USDE agreed with ATS and NWCCU that accredited education can be earned if excess benefit without a committee vote or written documentation can go unreported – and no taxes paid.

c. To continue the USDE cover ups and requirements that Plaintiff remains gagged concerning the *intentional misrepresentations* (18 U.S.C. § 1001) by NWCCU in 2008, that were made regarding the NWCCU "*investigation*" that Chuck Mula set up in a secret telephone conference call during which Mula instructed NWCCU.⁴ Furthermore, ASL Director, Nancy C. Regan used known "*false, fictitious or fraudulent statements or representations*" by Sandra Elman of NWCCU on Aug 29, 2008 that Regan disclosed to Plaintiff's attorney on Sept 29, 2008. USDE refuse to turn over records responsive to FOIA requests, because those records betray the fraud in which the Republican Margaret Spellings administration participated and the AAEU Chief Analyst, Chuck Mula, oversaw. Only some of this was learned due to an earlier FOIA lawsuit filed by Carol Nye-Wilson, which USDE finally produced records concerning.⁵

d. The demonstrated perjury, collusion, and cover up by former Western Seminary President Bert Downs regarding the involvement of ATS ("...with much conversation with registrar and with our then liaison with ATS...") in the unapproved substantive changes to master degree programs to help the school (18 U.S.C. § 1621; 28 U.S.C. § 1746). The USDE has known about the collusion since at least 2006, and looks the other way while refusing to turn over records, because those records betray the fraud the Republican Margaret Spellings administration also took part in.

⁴ See ¶ 35(e).

⁵ See *Nye-Wilson v. Education, Department of, United States, Margaret Spellings and Does 1 – 20 Hawaii District Court*, Case No. 1:2008cv00498

e. That cover ups are maintained and Plaintiff remains gagged concerning the “finger-banging, penis exposing evangelical pedophile” pastor Steve Korch who was 25 years old, married, attending Biola University and working as a youth pastor who committed acts of sexual misconduct with his fingers, mouth and penis on an underage girl in his locked office, when he was providing one-on-one counseling in 1975. (Exhibit I). Various current and former USDE employees have known about the fingering, kissing and penis pastor for years, and agreed with ATS and NWCCU that “*accredited education*” can only be earned if Plaintiff remains gagged. Furthermore, although an appellate court determined settlement agreements covering up sexual misconduct violate public policy⁶ the Republican Margret Spellings administration with ATS and NWCCU in 2008, subsequently rubber-stamped Western’s demand that Divinity and Theology masters degrees cannot be earned by Plaintiff *unless* known criminal acts of sexual misconduct are concealed with the payoff to a child molester to avoid taxes. Furthermore, the USDE is aware of the cover up demands by Western Seminary, Steve Korch, Lynn Ruark, Gary Tuck with the help of Sam Phillips (SB No. 127793), Mark Shem (SB No. 152860) and Anthony Lauria (SB No. 125367) attempting to cover up Korch’s acts and his statements in May 2009, at an Oregon men’s retreat and they were fined \$1,925 (CCP §128.7) by the court when they also claimed that sexual acts like Korch committed against a minor were clearly accepted in other countries and it should not be an issue here in California. (Exhibit J).

f. That cover-ups about what the Faith Baptist Church of Lincoln City, Oregon wrote to Steve Korch and others about his sexual misconduct in 1975. Pastor Bard Marshall stated:

“The Deacon board of Faith Baptist Church recognizes the tragic nature of the sin that took place in April and May of 1975, and its terrible consequences for all who were involved.. We would agree with Steve's description that his actions were "deplorable." Had the

⁶ In *Mary R. v. B. & R. Corp.*, 149 Cal. App. 3d 308 (1983), the Court of Appeal considered whether a stipulated confidentiality order that was entered into in settlement of litigation was against public policy. The confidentiality order (like the settlement agreement Margret Spellings and her staff reviewed and claimed they have no problem with as a means to earn an education and receive theology and divinity degrees) prevented the parties and their agents from discussing that a marriage and family counselor between 1975 and 1976 had repeatedly sexually molested a minor. *Id.* at 313. The Court of Appeal found that the order barred disclosure of “*a serious breach of professional conduct*” and “*serious criminal acts.*” *Id.* at 315. As such, it determined that “[t]he stipulated order of confidentiality is contrary to public policy, contrary to the ideal that full and impartial justice shall be secured in every matter and designed to secrete the evidence in the case from the ... public ...” *Id.* at 316. Because the “contract [was] made in violation of established public policy, the Court of Appeal struck the order of confidentiality. *Id.* at 317. The facts of this case are almost identical to those in *Mary R.* in that the parties here likewise entered into a settlement contract designed to cover up a defendant’s molestation of a child. As demonstrated by *Mary R.*, the Agreement is repugnant to the public interest. Indeed, the public interest militates even more strongly in this case than it did in *Mary R.* in favor of rescinding the award and settlement agreement, since the award and settlement agreement not only covers up a defendant’s sexual abuse of a child (and Section 504 fraud among other things), improperly interferes with Randy’s and Carol’s First Amendment right to petition the government for redress of grievances, a right also protected by article I, section 3 of the California Constitution. See *Balboa Island Village Inn, Inc. v. Lemen*, 40 Cal. 4th 1141, 1160 (2007) (finding an injunction was overbroad as it prevented the plaintiff from presenting her grievances to government officials, and noting that “[t]he right to petition the government for redress of grievances is ‘among the most precious of the liberties safeguarded by the Bill of Rights.’”).

1 church known of this moral failure in 1978, it is probable that they would not have called
 2 Steve Korch to be their pastor, and it is equally likely that, had the ordination council in
 3 1980 known of this moral failure, they would not have recommended his ordination.... All
 4 parties involved should be advised that the current congregation of Faith Baptist Church
 5 has been made aware of this moral failure that took place in 1975. They should also be
 6 aware that the leadership of Faith Baptist has expressed its opinion to Steve that, given the
 7 public nature of this sin, for the sake of the name of Christ, the more honorable course of
 8 action may be for him to voluntarily step down from his position of public ministry.”
 9 (Exhibit K)

10 Steve Korch refused to step down and instead continued his threats against Plaintiff and his
 11 mother and anyone else with knowledge were met with actions from his personal attorney Linda
 12 McPharlin and other attorneys Western Seminary hired. Using public money, the Republican
 13 Margret Spellings administration has sought to help cover for pastor Steve Korch.

14 g. That USDE cover-ups used public money in order to maintain outrageous and
 15 utterly intolerable conduct to protect by the Republican Margret Spellings administration. USDE
 16 does not have records detailing how many hundreds of thousands of dollars have been spent thus
 17 far.

18 h. That USDE cover ups about Republican Margret Spellings administration has
 19 concealed ATS and NWCCU noncompliance with 34 CFR §602.22, 34 CFR §602.15 and thus 34
 20 CFR §602.20 because it was actually the Republican Margret Spellings administration who was
 21 negligent in its duty to oversee the accreditation agencies in the first instance, among many other
 22 issues to state in this action.

23 i. and many more things.

24 45. Rather than protecting the public interest and the student, Plaintiff Randy Chapel,
 25 the USDE has sought to cover up the academic fraud concerning two masters degrees that they
 26 took part in, and destroyed Plaintiff's civil rights at every turn. On this point, USDE refuses to
 27 produce any records; since such records betray the fraud the Republican Margret Spellings
 28 administration also took part in while using public money for the cover up of their involvement.

The Public's Right to Know and

USDE is Covering up What it Has Done

25 46. President Obama's statement on FOIA: "A democracy requires accountability, and
 26 accountability requires transparency. As Justice Louis Brandeis wrote, 'sunlight is said to be the
 27 best of disinfectants.' In our democracy, the Freedom of Information Act (FOIA), which
 28 encourages accountability through transparency, is the most prominent expression of a profound
 national commitment to ensuring an open Government. At the heart of that commitment is the

1 idea that **accountability is in the interest of the Government and the citizenry alike**. The
 2 Freedom of Information Act should be administered with a clear presumption: In the face of
 3 doubt, **openness prevails. The Government should not keep information confidential merely**
 4 **because public officials might be embarrassed by disclosure, because errors and failures**
 5 **might be revealed, or because of speculative or abstract fears. Nondisclosure should never**
 6 **be based on an effort to protect the personal interests of Government officials at the expense**
 7 **of those they are supposed to serve. In responding to requests under the FOIA, executive**
 8 **branch agencies (agencies) should act promptly and in a spirit of cooperation, recognizing**
 9 **that such agencies are servants of the public. All agencies should adopt a presumption in**
 10 **favor of disclosure**, in order to renew their commitment to the principles embodied in FOIA, and
 11 to usher in a new era of open Government. The presumption of disclosure should be applied to all
 12 decisions involving FOIA. **The presumption of disclosure also means that agencies should**
 13 **take affirmative steps to make information public.** They should not wait for specific requests
 14 from the public. All agencies should use modern technology to inform citizens about what is
 15 known and done by their Government. **Disclosure should be timely.”** (Emphasis by Plaintiff).
 16 The withholding of records and the lack of timely action, has directly impacted Plaintiff to the
 17 point that his wife has left him, noting directly the litigation. HAD, USDE acted and enforced 34
 18 CFR 602 violations on ATS and NWCCU in 2008, among other things and not proceeded to cover
 19 up its negligent or wrongful act or omission by the scandalous Republican Margaret Spellings
 20 administration and her unlawful support of Western Seminary, Steve Korch, Gary Tuck, Lynn
 21 Ruark, Rob Wiggins, Randy Roberts, the board of Western Seminary, Plaintiff would not have
 22 had to deal with any of this during his marriage which began in April 5, 2008. In this real-world
 23 example, *failing to timely disclosure records*, fighting to keep records from Plaintiff, covering up
 24 for the scandalous Republican Margaret Spellings administration’s negligent or wrongful act or
 25 omissions has directly impacted Plaintiff’s life. Had the USDE followed the directions the
 26 President and his Attorney General made known nationally regarding the FOIA, it is reasonable to
 27 argue that Plaintiff would not be suffering, or made to suffer as his own government has made him
 28 to. Rather, the USDE in particular, does not want “*sunlight to be a disinfectant*” since such
 sunlight to records sought highlights the fraud and underhanded involvement of the Republican
 Margaret Spellings administration to scuttle two civil cases, and force new paradigms not
 envisioned by Congress concerning accreditation in the U.S. In short, Plaintiff alleges that the
 Republican Margaret Spellings administration used Plaintiff as a means to justify their ends to

1 serve their corporate masters. Plaintiff further alleges USDE is being disobedient to the aims and
2 direction that President Obama has chosen for government. Instead, the USDE wants to spend
3 limited public money to insure that no one gets records that demonstrate their **reprehensible** acts
4 and cover up. USDE will spend more money fighting not to produce records, rather than taking
5 “**affirmative steps to make information public**” since such records are a gross embarrassment to
6 the USDE as to the level the USDE and its employees will go to cover up their actions, even if it
7 means destroying students and families in the process of their concealment.

8 47. Plaintiff alleges USDE wants the Department of Justice to defend it and to insure
9 that **none of the requested records are released** to anyone, most of all to the Plaintiff. Plaintiff
10 further alleges that USDE are so hell-bent to cover up what it has done, and so determined to deny
11 Plaintiff his civil rights, that the USDE will fight the release of any records to anyone, including
12 third parties who submitted the very same FOIA requests to EDFOIA as the Plaintiff – including
13 future FOIA requests by the national media and non-profit public interest groups seeking answers.
14 USDE doesn’t want the public to know about its dark deeds that were funded with public money
15 and USDE will use public money to ensure records remained hidden.

16 48. The FOIA requests **11-01474-F** and **11-01901-F** promote openness in government
17 and access to information that should be public and public has paid for. In a democracy, materials
18 should be open unless disclosure would cause significant harm to the safety of the public or the
19 national defense. USDE has failed to show any claim as to how and why the production of
20 responsive records for FOIA requests **11-01474-F** and **11-01901-F** would cause significant harm
21 to the public or to the national defense. At no time has USDE claimed that production of records
22 sought would cause any harm. Indeed, USDE has simply refused to produce anything to Plaintiff
23 and clearly do not want the records, or in many of the cases, knowledge that records don’t exist,
24 and thus, the USDE had no just cause for their many of their decisions to be made known and
25 surely made known to Plaintiff.

26 49. Plaintiff alleges the government's position is, in a word, absurd and deeply
27 disturbing before the court for intentionally withholding documents the government knows should
28 be public and that the public has a right to know what government has done. It is reasonable that
Americans will see the USDE actions as socially unacceptable and will demand answers. This is
most significant given that USDE supports with public money “*education for cover up*”
concerning criminal acts and civil wrongs, including molestation of the underage by a pastor.

1 50. Plaintiff alleges Chuck Mula and Nancy C. Regan, former USDE employees
 2 Cheryl Oldham, Margret Spellings and others within the Republican Margret Spellings
 3 administration are arrogant and irresponsible government employees who see students and their
 4 families as “*acceptable collateral damage*” in comparison to their need to cover up for
 5 accreditation agencies and failed units within USDE that the OIG previously audited has having
 6 and to which continues to have problems. Plaintiff further alleges Chuck Mula’s recent acts
 continue to the cover up.

7 51. Plaintiff alleges the USDE and other employees within the USDE are well aware
 8 that the actions of the Republican Margret Spellings administration have eviscerated Plaintiff’s
 9 life. Arne Duncan and his administration continue to not mitigate further damages to Plaintiff at
 10 this time. Instead, USDE and its employees are hell-bent to cover up for the irresponsible
 11 Republican Margret Spellings administration and produce no records. Further, the USDE has not
 12 produced materials since production of materials would expose **nefarious** activities – causing
 13 them to be open to public shame and criticism for violating state and federal laws, decisional cases
 and the Plaintiffs civil rights.

14 52. Plaintiff alleges the public has a right to know who or what is influencing its
 15 government. Open Records and Freedom of Information laws are critical to ensuring a transparent
 16 and accountable government. Taxpayers deserve to know how their hard-earned money is being
 17 spent. And America ought to know who is massaging legislation or finger prodding elected
 18 officials to their own benefits and to the benefit of special interests. The public deserves to have
 19 transparent and account leaders and an explanation with the records sought as to why public
 20 money is being used to cover up for a pastor who molested a girl, Section 504 fraud, FERPA
 violations, and academic fraud, and so on – all in the name of “earning an education.”

The Requested Records

21 53. Agencies must conduct a search that is “*reasonably calculated to uncover all*
 22 *relevant documents.*” Agencies must search everywhere it is reasonably likely that responsive
 23 records exist. USDE employees have failed to do so and will continue until forced by the court
 24 and public opinion.

11-01474-F

25 54. On May 11, Plaintiff sent a FOIA request for 25 categories that was received the
 26 same day. Plaintiff’s request named current and previous USDE personnel who should or would
 27 have the records he sought or could access locations where the records exist. (Exhibit L). In so
 28

1 doing, Plaintiff narrowed down precisely which employee should or would have access to the
 2 records Plaintiff sought. This request was acknowledged by the USDE on May 12, 2011, and
 3 assigned an Individual Tracking No. **11-01474-F**. (Exhibit M).

4 55. Once again, the game playing proceeded. On May 26, Richard Jameson from the
 5 Office of Postsecondary Education contacted Plaintiff, and claimed that the so-called "*subject*
 6 *matter experts*" suggested that the Plaintiff "narrow the scope of your request, if you could be
 7 more specific in terms of defining what documents you are requesting." (Exhibit N). Richard
 8 Jameson made no effort to refute that the Plaintiff had already narrowed down precisely which
 9 employee should or would have access to the records Plaintiff sought and thus could clearly
 10 conduct a search reasonably likely to determine if responsive records exist, that they themselves
 11 had been involved in the creation, receiving, or maintaining. In short, while USDE already knew
 12 which employee had subject matter knowledge and thus able to reasonably infer which records
 13 could reasonably be construed as being requested, the various named employees in the Request
 14 failed to perform a search that reasonably calculated would uncover all relevant documents.

15 56. Plaintiff responded to Richard Jameson, Arne Duncan, former General Counsel
 16 Charles Rose, and Chuck Mula four hours later. (Exhibit O). Plaintiff responded in part reminding
 17 USDE that:

18 "On Jan 21, 2009 our President stated:

19 The Freedom of Information Act should be administered with a clear presumption: In the
 20 face of doubt, *openness prevails*. The Government should not keep information
 21 confidential merely because public officials might be embarrassed by disclosure, because
 22 errors and failures might be revealed, or because of speculative or abstract
 23 fears. Nondisclosure should never be based on an effort to protect the personal interests of
 24 Government officials at the expense of those they are supposed to serve. In responding to
 25 requests under the FOIA, executive branch agencies (agencies) should act promptly and in
 26 a spirit of cooperation, recognizing that such agencies are servants of the public.

27 All agencies should adopt a presumption in favor of disclosure, in order to renew their
 28 commitment to the principles embodied in FOIA, and to usher in a new era of open
 Government. The presumption of disclosure should be applied to all decisions involving
 FOIA.

The presumption of disclosure also means that agencies should take affirmative steps to
 make information public. They should not wait for specific requests from the public. All
 agencies should use modern technology to inform citizens about what is known and done
 by their Government. Disclosure should be timely."

Given the potential volume of materials, accept this as my written approval to increase the
 amount I am willing to pay from \$200 to \$500.

Given the potential volume of materials, accept this as my written approval to extend the time for this FOIA by 10 working days, for a total of 30 working days from May 11, 2011.

As the Department makes the clear presumption in producing materials that **openness prevails**, please insure that any materials that may have been sent to Western Seminary or their attorneys of record regarding any federal/state law or accreditation violation, including attorney misconduct that the Department is aware of should be presented in this FOIA. This most of all, since the letter requesting reconsideration dated Jan 12, 2011 to Ms. Kay Gilcher, Secretary Duncan, Mr. Rose which was received on Jan 19 by the Department.

Because these materials are sensitive in nature and my desire is to seek administrative remedies with the Department, I will in turn agree to a public blackout of these materials I seek until Dec 31, 2011 or until such time as a resolution can be determined or a denial to a FTCA claim has been made or in the unfortunate event that I am caused to file a FOIA case after exhausting my administrative remedies for this FOIA request.

I hope this is reasonable to the Department. Please advise me if there are further concerns.

Above all, I am going to trust that you and others will do your best."

57. The USDE made no further statement to Plaintiff regarding **11-01474-F**.

58. The USDE did not produce any materials to Plaintiff regarding **11-01474-F**.

59. Richard Jameson did not respond to Plaintiff's statement (Exhibit O) and withdrew from any further discussions and interactions with Plaintiff.

60. Chuck Mula who has a history of questionable acts and who has a history of withholding materials sought by Plaintiff (and Plaintiff's mother) made no effort to respond to Plaintiff's statement (Exhibit O).

61. On June 24, 2011 Plaintiff wrote to the EDFOIA Manager concerning **exhausting his administrative remedies** for FOIA request **11-01474-F** since USDE had not produced records within 20 business days or within 10 additional business days as previously proposed by Plaintiff. (Exhibit P).

62. On June 27, 2011 Plaintiff **wrote again** to the EDFOIA Manager and further detailed information concerning records sought for FOIA request **11-01474-F** (Exhibit B, pages 3-8).

63. On July 10, 2011 Plaintiff **wrote again** to the EDFOIA Manager reminding USDE that his FOIA request was "well overdue." (Exhibit T).

64. On July 26, 2011 Plaintiff **wrote again** to the EDFOIA Manager concerning the failure of USDE to produce with a SECOND NOTICE. (Exhibit Q).

1 65. On Aug 5, 2011 Plaintiff **wrote again** to the EDFOIA Manager concerning the
2 failure of USDE to produce with a THIRD NOTICE. (Exhibit R).

3 66. No final determination had been made and no date was provided for when records
4 would all be released.

5 67. At all times, Plaintiff sought to work administratively with the USDE and its
6 employees to seek the records the USDE and its employees withhold or to acknowledge don't
7 exist. USDE has failed and refused to produce anything. Plaintiff went so far as to note that
8 Plaintiff did "not wish to initiate litigation at this point because I [Plaintiff] feel a cooperative
9 approach is better suited in resolving this situation." Plaintiff even noted, "If it is a matter of
10 personnel, perhaps hiring a temp to go into the Department's offices and make copies of the
11 documents is in order."

12 68. Plaintiff alleges that it can be reasonably asserted that these are the following
13 current USDE employees who maintain or have the authority/ knowledge concerning the records
14 he seeks by the FOIA, which Plaintiff had already informed USDE concerning. Plaintiff further
15 alleges that it can be reasonably asserted that these are the former USDE employees who may
16 have had a record, and thus, records would be found in their files. Finally, Plaintiff alleges that it
17 can be reasonably asserted that these are the locations within the USDE where records reasonably
18 could be found responsive to the request or the location within the USDE where the USDE can
19 make the determination that no records exist [Office For Civil Rights (OCR), Office of
20 Management (OM), Human Resources (HR)]:

21 **Request No. 1:** **WRITINGS** from September 1999 to the present, *between ATS and*
22 **WESTERN SEMINARY** that the U.S. Department of Education has in
23 its possession, custody and control that relates to Randy Chapel.

24 **Personnel/Location:** Cheryl Oldham, Nancy C. Regan, Chuck Mula,
25 Carol Griffiths, Kay Gilcher, Diane Auer Jones, Margaret Spellings,
26 Kent Talbert, Charles Rose, Philip Rosenfelt, Edgar Mayes,
27 AAEU/ASL, an employee assigned to maintain or has knowledge
28 concerning the record sought, which would be known by USDE, OGC,
OPE, OOS.

Request No. 2: **WRITINGS** from September 1999 to the present, *between NWCCU*
and **WESTERN SEMINARY** that the U.S. Department of Education
has in its possession, custody and control that relates to Randy Chapel.

Personnel/Location: Cheryl Oldham, Nancy C. Regan, Chuck Mula,
Carol Griffiths, Kay Gilcher, Diane Auer Jones, Margaret Spellings,
Kent Talbert, Charles Rose, Philip Rosenfelt, Edgar Mayes,

AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 3: **WRITINGS** from January 2007 to the present, *between* **EDINBURGH** and **WESTERN SEMINARY** that the U.S. Department of Education has in its possession, custody and control that relates to Randy Chapel.

Personnel/Location: Cheryl Oldham, Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Diane Auer Jones, Margaret Spellings, Kent Talbert, Charles Rose, Philip Rosenfelt, Edgar Mayes, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 4: **WRITINGS** from Aug 2006 to the present, *between* **ST. PATRICK'S** and **WESTERN SEMINARY** that the U.S. Department of Education has in its possession, custody and control that relates to Randy Chapel.

Personnel/Location: Cheryl Oldham, Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Diane Auer Jones, Margaret Spellings, Kent Talbert, Charles Rose, Philip Rosenfelt, Edgar Mayes, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 5: **WRITINGS** from December 2006 to the present, *between* **JSTB** and **WESTERN SEMINARY** that the U.S. Department of Education has in its possession, custody and control that relates to Randy Chapel.

Personnel/Location: Cheryl Oldham, Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Diane Auer Jones, Margaret Spellings, Kent Talbert, Charles Rose, Philip Rosenfelt, Edgar Mayes, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 6: **WRITINGS** from March 2006 to the present, *from* **WESTERN SEMINARY** to (any person or accreditation agency or business entity) that the U.S. Department of Education has in its possession, custody and control.

Personnel/Location: Cheryl Oldham, Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Diane Auer Jones, Margaret Spellings, Kent Talbert, Charles Rose, Philip Rosenfelt, Edgar Mayes, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 7: **WRITINGS** from March 2006 to the present, from (any person or accreditation agency or business entity) *to* **WESTERN SEMINARY** that the U.S. Department of Education has in its possession, custody and control.

Personnel/Location: Cheryl Oldham, Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Diane Auer Jones, Margaret Spellings, Kent Talbert, Charles Rose, Philip Rosenfelt, Charles Rose, Edgar Mayes, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 8: **WRITINGS** from March 2006 to the present, from (any person or accreditation agency or business entity) *cc: to* **WESTERN SEMINARY** that the U.S. Department of Education has in its possession, custody and control.

Personnel/Location: Cheryl Oldham, Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Diane Auer Jones, Margaret Spellings, Kent Talbert, Charles Rose, Philip Rosenfelt, Edgar Mayes, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 9: **WRITINGS** from March 2006 to the present, *between* any employee of the Office of the General Counsel and **WESTERN SEMINARY** that the U.S. Department of Education has in its possession, custody and control.

Personnel/Location: Cheryl Oldham, Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Diane Auer Jones, Margaret Spellings, Kent Talbert, Charles Rose, Philip Rosenfelt, Edgar Mayes, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 10: **WRITINGS** from March 2006 to the present, *between* any employee of the Office of Postsecondary Education and **WESTERN SEMINARY** that the U.S. Department of Education has in its possession, custody and control.

Personnel/Location: Cheryl Oldham, Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Diane Auer Jones, Margaret Spellings, Kent Talbert, Charles Rose, Philip Rosenfelt, Edgar Mayes, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

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2 **Request No. 11:** **WRITINGS** from March 2006 to the present, *between* any employee of
3 the Office of the Under Secretary and **WESTERN SEMINARY** that
4 the U.S. Department of Education has in its possession, custody and
5 control.

6 **Personnel/Location:** Cheryl Oldham, Nancy C. Regan, Chuck Mula,
7 Carol Griffiths, Kay Gilcher, Diane Auer Jones, Margaret Spellings,
8 Kent Talbert, Charles Rose, Philip Rosenfelt, Edgar Mayes,
9 AAEU/ASL, an employee assigned to maintain or has knowledge
10 concerning the record sought, which would be known by USDE, OGC,
11 OPE, OOS.

12 **Request No. 12:** **WRITINGS** from March 2006 to the present, *between* any employee of
13 the Office of the Deputy Secretary and **WESTERN SEMINARY** that
14 the U.S. Department of Education has in its possession, custody and
15 control.

16 **Personnel/Location:** Cheryl Oldham, Nancy C. Regan, Chuck Mula,
17 Carol Griffiths, Kay Gilcher, Diane Auer Jones, Margaret Spellings,
18 Kent Talbert, Charles Rose, Philip Rosenfelt, Edgar Mayes,
19 AAEU/ASL, an employee assigned to maintain or has knowledge
20 concerning the record sought, which would be known by USDE, OGC,
21 OPE, OOS.

22 **Request No. 13:** **WRITINGS** from March 2006 to the present, *between* any employee of
23 the Office of the Secretary and **WESTERN SEMINARY** that the U.S.
24 Department of Education has in its possession, custody and control.

25 **Personnel/Location:** Cheryl Oldham, Nancy C. Regan, Chuck Mula,
26 Carol Griffiths, Kay Gilcher, Diane Auer Jones, Margaret Spellings,
27 Kent Talbert, Charles Rose, Philip Rosenfelt, Edgar Mayes,
28 AAEU/ASL, an employee assigned to maintain or has knowledge
concerning the record sought, which would be known by USDE, OGC,
OPE, OOS.

Request No. 14: **WRITINGS** from March 2006 to the present, *between* any employee of
the U.S. Department of Education and **WESTERN SEMINARY**
concerning any accreditation violation by **WESTERN SEMINARY** as
it relates to Randy Chapel.

Personnel/Location: Cheryl Oldham, Nancy C. Regan, Chuck Mula,
Carol Griffiths, Kay Gilcher, Diane Auer Jones, Margaret Spellings,
Kent Talbert, Charles Rose, Philip Rosenfelt, Edgar Mayes,
AAEU/ASL, an employee assigned to maintain or has knowledge
concerning the record sought, which would be known by USDE, OGC,
OPE, OOS, OCR.

1 **Request No. 15:** **WRITINGS** from March 2006 to the present, *between* any employee of
 2 the U.S. Department of Education and **WESTERN SEMINARY**
 3 concerning any law violation by **WESTERN SEMINARY** as it relates
 4 to Randy Chapel.

5 **Personnel/Location:** Cheryl Oldham, Nancy C. Regan, Chuck Mula,
 6 Carol Griffiths, Kay Gilcher, Diane Auer Jones, Margaret Spellings,
 7 Kent Talbert, Charles Rose, Philip Rosenfelt, Edgar Mayes,
 8 AAEU/ASL, an employee assigned to maintain or has knowledge
 9 concerning the record sought, which would be known by USDE, OGC,
 10 OPE, OOS, OCR

11 **Request No. 16:** **WRITINGS** from March 2006 to the present, *between* any employee of
 12 the (Office of Postsecondary Education OR Office of the General
 13 Counsel) and **ATS** that the U.S. Department of Education has in its
 14 possession, custody and control that relates to Randy Chapel. These
 15 **WRITINGS** may involve *one or more of any of the following people*
 16 within the **PEOPLE GROUP**.

17 **Personnel/Location:** Cheryl Oldham, Nancy C. Regan, Chuck Mula,
 18 Carol Griffiths, Kay Gilcher, Diane Auer Jones, Margaret Spellings,
 19 Kent Talbert, Charles Rose, Philip Rosenfelt, Edgar Mayes,
 20 AAEU/ASL, an employee assigned to maintain or has knowledge
 21 concerning the record sought, which would be known by USDE, OGC,
 22 OPE, OOS.

23 **Request No. 17:** **WRITINGS** from March 2006 to the present, *between* any employee of
 24 the (Office of Postsecondary Education OR Office of the General
 25 Counsel) and **ATS** that the U.S. Department of Education has in its
 26 possession, custody and control that relates to Carol Nye-Wilson. These
 27 **WRITINGS** may involve *one or more of any of the following people*
 28 within the **PEOPLE GROUP**.

Personnel/Location: Cheryl Oldham, Nancy C. Regan, Chuck Mula,
 Carol Griffiths, Kay Gilcher, Diane Auer Jones, Margaret Spellings,
 Kent Talbert, Charles Rose, Philip Rosenfelt, Edgar Mayes,
 AAEU/ASL, an employee assigned to maintain or has knowledge
 concerning the record sought, which would be known by USDE, OGC,
 OPE, OOS.

Request No. 18: **WRITINGS** from March 2006 to the present, *between* any employee of
 the (Office of Postsecondary Education OR Office of the General
Counsel) and **ATS** that the U.S. Department of Education has in its
 possession, custody and control that relates to Kevin Ford. These
WRITINGS may involve *one or more of any of the following people*
 within the **PEOPLE GROUP**.

Personnel/Location: Cheryl Oldham, Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Diane Auer Jones, Margaret Spellings, Kent Talbert, Charles Rose, Philip Rosenfelt, Edgar Mayes, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 19: **WRITINGS** from March 2006 to the present, *between* any employee of the (Office of Postsecondary Education OR Office of the General Counsel) and NWCCU that the U.S. Department of Education has in its possession, custody and control that relates to Randy Chapel. These **WRITINGS** may involve *one or more of any of the following people* within the **PEOPLE GROUP**.

Personnel/Location: Cheryl Oldham, Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Diane Auer Jones, Margaret Spellings, Kent Talbert, Charles Rose, Philip Rosenfelt, Edgar Mayes, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 20: **WRITINGS** from March 2006 to the present, *between* any employee of the (Office of Postsecondary Education OR Office of the General Counsel) and NWCCU that the U.S. Department of Education has in its possession, custody and control that relates to Carol Nye-Wilson. These **WRITINGS** may involve *one or more of any of the following people* within the **PEOPLE GROUP**.

Personnel/Location: Cheryl Oldham, Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Diane Auer Jones, Margaret Spellings, Kent Talbert, Charles Rose, Philip Rosenfelt, Edgar Mayes, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 21: **WRITINGS** from March 2006 to the present, *between* any employee of the (Office of Postsecondary Education OR Office of the General Counsel) and NWCCU that the U.S. Department of Education has in its possession, custody and control that relates to Kevin Ford. These **WRITINGS** may involve *one or more of any of the following people* within the **PEOPLE GROUP**.

Personnel/Location: Cheryl Oldham, Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Diane Auer Jones, Margaret Spellings, Kent Talbert, Charles Rose, Philip Rosenfelt, Edgar Mayes, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

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2 **Request No. 22:** **WRITINGS** from March 2006 to the present, *between* any employee of
3 the Office of Postsecondary Education and **Randy Chapel** that the U.S.
4 Department of Education has in its possession, custody and control.
These **WRITINGS** may involve *one or more of any of the following*
5 *people* within the **PEOPLE GROUP**.

6 **Personnel/Location:** Cheryl Oldham, Nancy C. Regan, Chuck Mula,
7 Carol Griffiths, Kay Gilcher, Diane Auer Jones, Margaret Spellings,
8 Kent Talbert, Charles Rose, Philip Rosenfelt, Edgar Mayes,
AAEU/ASL, an employee assigned to maintain or has knowledge
concerning the record sought, which would be known by USDE, OGC,
OPE, OOS.

9 **Request No. 23:** **WRITINGS** from March 2006 to the present, *between* any employee of
10 the Office of the General Counsel and **Randy Chapel** that the U.S.
11 Department of Education has in its possession, custody and control.
These **WRITINGS** may involve *one or more of any of the following*
12 *people* within the **PEOPLE GROUP**.

13 **Personnel/Location:** Cheryl Oldham, Nancy C. Regan, Chuck Mula,
14 Carol Griffiths, Kay Gilcher, Diane Auer Jones, Margaret Spellings,
15 Kent Talbert, Charles Rose, Philip Rosenfelt, Edgar Mayes,
AAEU/ASL, an employee assigned to maintain or has knowledge
concerning the record sought, which would be known by USDE, OGC,
OPE, OOS.

16 **Request No. 24:** **WRITINGS** from March 2006 to the present, *between* any employee of
17 the Office of the Secretary and **Randy Chapel** that the U.S. Department
18 of Education has in its possession, custody and control. These
19 **WRITINGS** may involve *one or more of any of the following people*
within the **PEOPLE GROUP**.

20 **Personnel/Location:** Cheryl Oldham, Nancy C. Regan, Chuck Mula,
21 Carol Griffiths, Kay Gilcher, Diane Auer Jones, Margaret Spellings,
22 Kent Talbert, Charles Rose, Philip Rosenfelt, Edgar Mayes,
23 AAEU/ASL, an employee assigned to maintain or has knowledge
concerning the record sought, which would be known by USDE, OGC,
OPE, OOS.

24 **Request No. 25:** **WRITINGS** from March 2006 to the present, *between* any employee of
25 the Office of Postsecondary Education and **Carol Nye-Wilson** that the
26 U.S. Department of Education has in its possession, custody and
control. These **WRITINGS** may involve *one or more of any of the*
27 *following people* within the **PEOPLE GROUP**.

28 **Personnel/Location:** Cheryl Oldham, Nancy C. Regan, Chuck Mula,
Carol Griffiths, Kay Gilcher, Diane Auer Jones, Margaret Spellings,

Kent Talbert, Charles Rose, Philip Rosenfelt, Edgar Mayes, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

11-01901-F

69. On June 27, 2011 Plaintiff made a third FOIA request. (Exhibit B). This was sent to the EDFOIA Manager, Bennie Jessup, Arne Duncan, former General Counsel Charles Rose, President Obama, U.S. Attorney General Eric Holder and Belinda Smith in the UK. Plaintiff requested 84 categories of records. In so doing, Plaintiff precisely made known what records he sought and which employee should or would have access to the records sought.

70. On July 5, 2011 Plaintiff sent a revised FOIA request based on the third request (Exhibit S).

71. USDE failed to timely respond within 10 business days and provide an individualized tracking number to Plaintiff pursuant to Section 7 of the OPEN Government Act of 2007, Pub. L. No. 110-175, "agencies must assign an individualized tracking number to requests that will take longer than **ten days** to process, and provide that tracking number to the requester."

72. On July 10, 2011 Plaintiff **notified** the USDE that his FOIA request lacked a tracking number ("another without a tracking number as required by *Section 7 of the OPEN Government Act of 2007, Pub. L. No. 110-175*"). (Exhibit T).

73. On July 12, 2011 Congresswoman Anna G. Eshoo, CA-14 made a formal request for both FOIAs to USDE on behalf of Plaintiff. USDE has not produced to the Congresswoman.

74. On July 26, 2011 Plaintiff **wrote again** to the FOIA Manager concerning the failure of the USDE to produce with a NOTICE ("This is to confirm that nothing has been produced for the 84 FOIA categories requested first on *June 27* (misspelling on page 8) and subsequently revised on *July 5*"). (Exhibit Q). The USDE finally responded after Plaintiff made a demand for "all 84 FOIA categories," as no tracking number had been provided within 10 days as per Section 7 of the OPEN Government Act of 2007.

75. On July 28, 2011 USDE *finally* provided an individualized tracking number for the June 27, 2011 request, with the EDFOIA Manager claiming to have received Plaintiff's FOIA request on June 28, 2011. (Exhibit Z). After sending the individualized tracking number, the EDFOIA Manager sent no further communication to Plaintiff regarding the request.

76. On Aug 5, 2011 Plaintiff **wrote again** to the EDFOIA Manager concerning the failure of the USDE to produce records with a SECOND NOTICE ("This is the **second** reminder

1 that I have not received anything for request **11-01901-F**. This is also my notice that I have
 2 **exhausted my administrative remedies** for FOIA requests **11-01901-F** as the Department has
 3 failed to produce anything as required within 20 business days per statute.”). (Exhibit R).

4 77. EDFOIA made no final determination and no date was provided for when the
 5 requested records would all be released.

6 78. At all times, Plaintiff sought to work administratively with the USDE and its
 7 employees while seeking the records that the USDE and its employees withhold or acknowledge
 8 don’t exist. USDE has failed and refused to produce anything.

9 79. Plaintiff is informed and alleges that the USDE refused to produce the 84 requested
 10 records even to third parties:

- 11 a. Such as to Plaintiff’s friend Marie Haig (Exhibit U) concerning the same 84
 12 requested records.
- 13 b. Such as to Plaintiff’s bother Justin Nye (Exhibit V) concerning the same 84
 14 requested records.
- 15 c. Such as to Plaintiff’s father Dale Wilson (Exhibit W) concerning the same 84
 16 requested records.
- 17 d. Such as to Plaintiff’s family friend (Exhibit X) concerning the same 84 requested
 18 records.
- 19 e. Such as to Plaintiff’s bother-in-law (Exhibit Y) concerning the same 84 requested
 20 records.

21 80. Plaintiff alleges that USDE is hell-bent to keep any and all records from Plaintiff
 22 and members of the public, such that in the event other 3rd parties make requests discussed herein,
 23 the USDE will fight them and refuse to produce the requested records at all costs, including if it
 24 means using public money to withhold those records.

25 81. Plaintiff alleges that it can be reasonably asserted that these are the following
 26 current USDE employees who maintain or have the authority/knowledge concerning the records
 27 sought by Plaintiff and others, which Plaintiff had already informed USDE concerning. Plaintiff
 28 further alleges that it can be reasonably asserted that these are the former USDE employees who
 may have had a record and thus, records would be found in their files. Finally, Plaintiff alleges
 that it can be reasonably asserted that these are the locations within the USDE where records
 reasonably could be found that are responsive to Plaintiff’s FOIA requests or the locations within
 the USDE where the USDE can make the determination that no records exist:

Request No. 1: Any records in 2008 that indicate Chuck Mula's supervisor's name.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, HR, OM.

Request No. 2: Any records in 2008 that indicate Cheryl Oldham's supervisor's name.

Personnel/Location: Cheryl Oldham, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, HR, OM.

Request No. 3: Any records in 2008 that indicate Nancy C. Regan's supervisor's name.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, HR, OM.

Request No. 4: Any records in 2008 that indicate Carol Griffiths's supervisor's name.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, HR, OM.

Request No. 5: Any records in 2008 that indicate Diane Auer Jones's supervisor's name.

Personnel/Location: Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, HR, OM.

Request No. 6: Department organizational directories or charts showing all supervisors from Chuck Mula's position to Margaret Spellings from March 2007-Jan 15, 2009.

Personnel/Location: an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OPE, OOS, HR, OM.

Request No. 7: All Department records between Chuck Mula and ATS from March 2007 to the current date.

Personnel/Location: Chuck Mula, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE.

Request No. 8: All Department records between Chuck Mula and NWCCU from March 2007 to the current date.

Personnel/Location: Chuck Mula, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE.

Request No. 9: All Department records between Chuck Mula and Randy Chapel from March 2007 to current date.

Personnel/Location: Chuck Mula, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE.

Request No. 10: All Department records between Chuck Mula and Carol Nye-Wilson from March 2007 to the current date.

Personnel/Location: Chuck Mula, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE.

Request No. 11: All Department records between Chuck Mula and WESTERN SEMINARY from March 2007 to today.

Personnel/Location: Chuck Mula, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE.

Request No. 12: All Department records between the Department and ATS from 2006 to today concerning Randy Chapel or Carol Nye-Wilson or Kevin Ford.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 13: All Department records between the Department and NWCCU from 2006 to today concerning Randy Chapel or Carol Nye-Wilson or Kevin Ford.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths,

Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 14: All Department records between the Department and **WESTERN SEMINARY** from 2005 to today concerning Randy Chapel or Carol Nye-Wilson or Kevin Ford. OCR may exclude records dated from 2005-2009 as they have already been produced.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS, OCR.

Request No. 15: All Department records between the Department and **EDINBURGH** from 2007 to today concerning Randy Chapel or Carol Nye-Wilson or Kevin Ford.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 16: All Department records between the Department and **JSTB** from 2007 to today concerning Randy Chapel or Carol Nye-Wilson or Kevin Ford.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 17: All Department records between the Department and **ST. PATRICK'S** from 2007 to today concerning Randy Chapel or Carol Nye-Wilson or Kevin Ford.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC,

OPE, OOS.

Request No. 18: All Department records between the Department and Matthew Geyer from March 2007 to today.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 19: All Department records between the Department and Leonard Sprinkles from March 2007 to today.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 20: All Department records between the Department and Debbie Godbey (aka Debbie Brumbaugh Debra Brumbaugh, Deb Brumbaugh, Deb Godbey) from March 2007 to today.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 21: All Department records between the Department and Willard Brumbaugh from March 2007 to the current date.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 22: All Department records between the Department and Paul Godbey from March 2007 to the current date.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne

Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 23: All Department records between the Department and (Susan Chapel or her attorney) from March 2007 to the current date.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 24: All Department records between the Department and Matt Tuck from March 2007 to the current date.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS, FPCO, OCR.

Request No. 25: All Department records that support the conclusions of the Nancy C. Regan letter to John Hannon in Sept 2008.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 26: All Department records that support the conclusions of the Nancy C. Regan letter to Sandra E. Elman in Aug 2008.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 27: All Department records that support the conclusions of the Nancy C. Regan letter to Daniel O. Aleshire in Aug 2008.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Margaret Spellings, Arne Duncan, Edgar

Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 28: The ATS "*exception*" policy in effect on March 14, 2006.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 29: The ATS 34 CFR § 602.22 policy in effect on March 14, 2006.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 30: The ATS 34 CFR § 602.22 policy in effect on August 29, 2008.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 31: The current ATS 34 CFR § 602.22 policy.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 32: The NWCCU "*exception*" policy in effect on March 14, 2006.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 33: The NWCCU 34 CFR § 602.22 policy in effect on March 14, 2006.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Margaret Spellings, Arne Duncan, Edgar

Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 34: The NWCCU 34 CFR § 602.22 policy in effect on August 29, 2008.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 35: The current NWCCU 34 CFR § 602.22 policy.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 36: All Department records concerning reviews conducted under 34 CFR §602.33 for ATS since 2000.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OPE.

Request No. 37: All Department records concerning reviews conducted under 34 CFR §602.33 for NWCCU since 2000.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OPE.

Request No. 38: All Department records concerning ATS compliance reports submitted under 34 CFR §602.31(c) since 2000.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OPE.

Request No. 39: All Department records concerning ATS compliance reports submitted under 34 CFR §602.31(c) that indicate the 2006 annual report submitted by Western Seminary showing substantive changes to the Th.M. degree offered to Randy Chapel at the San Jose campus for 12 M.Div credits to

count for Th.M. credits.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OPE.

Request No. 40: All Department records concerning NWCCU compliance reports submitted under 34 CFR §602.31(c) since 2000.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OPE.

Request No. 41: All Department records concerning NWCCU compliance reports submitted under 34 CFR § 602.31(c) that demonstrated the 2006 annual report filed by Western Seminary listed 12 credits of courses offered outside the NWCCU region to count for the Th.M. degree that were never previously offered by Western.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OPE.

Request No. 42: All Department records concerning NWCCU compliance reports submitted under 34 CFR § 602.31(c) that demonstrated the 2006 annual report filed by Western Seminary listed 12 credits of courses were planned for outside the NWCCU region to count for the Th.M. degree.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OPE.

Request No. 43: All Department records concerning NWCCU compliance reports submitted under 34 CFR § 602.31(c) that demonstrated the 2007 annual report filed by Western Seminary that listed 12 credits of courses offered or planned outside the NWCCU region to count for the Th.M. degree as they were never previously offered or planned by Western.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OPE.

Request No. 44: All Department records concerning ATS expansion of scope submitted

1 under 34 CFR §602.31(b) since 2000.

2 **Personnel/Location:** Nancy C. Regan, Chuck Mula, Carol Griffiths,
3 Kay Gilcher, AAEU/ASL, an employee assigned to maintain or has
4 knowledge concerning the record sought, which would be known by
USDE, OPE.

5 **Request No. 45:** All Department records concerning NWCCU expansion of scope
6 submitted under 34 CFR §602.31(b) 2000.

7 **Personnel/Location:** Nancy C. Regan, Chuck Mula, Carol Griffiths,
8 Kay Gilcher, AAEU/ASL, an employee assigned to maintain or has
9 knowledge concerning the record sought, which would be known by
USDE, OPE.

10 **Request No. 46:** All Department records concerning ATS continued recognition
11 submitted under 34 CFR §602.31(a) since 2000.

12 **Personnel/Location:** Nancy C. Regan, Chuck Mula, Carol Griffiths,
13 Kay Gilcher, AAEU/ASL, an employee assigned to maintain or has
knowledge concerning the record sought, which would be known by
USDE, OPE.

14 **Request No. 47:** All Department records concerning NWCCU continued recognition
15 submitted under 34 CFR §602.31(a) since 2000.

16 **Personnel/Location:** Nancy C. Regan, Chuck Mula, Carol Griffiths,
17 Kay Gilcher, AAEU/ASL, an employee assigned to maintain or has
18 knowledge concerning the record sought, which would be known by
USDE, OPE.

19 **Request No. 48:** All Department records concerning ATS and 34 CFR §602.33 since
20 2000.

21 **Personnel/Location:** Nancy C. Regan, Chuck Mula, Carol Griffiths,
22 Kay Gilcher, AAEU/ASL, an employee assigned to maintain or has
knowledge concerning the record sought, which would be known by
USDE, OPE.

23 **Request No. 49:** All Department records concerning NWCCU and 34 CFR §602.33
24 since 2000.

25 **Personnel/Location:** Nancy C. Regan, Chuck Mula, Carol Griffiths,
26 Kay Gilcher, AAEU/ASL, an employee assigned to maintain or has
27 knowledge concerning the record sought, which would be known by
USDE, OPE.

28 **Request No. 50:** All Department records for citations on or around May - June 2008 to

any accreditation agency other than **ATS** or **NWCCU** to whom the Department issued citations for policies or procedures regarding either rejecting or tabling complaints to agencies from any complainants who had filed lawsuits against schools accredited by their respective agency.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OPE.

Request No. 51: All Department information notices to all accreditation agencies stating they must not have policies or procedures regarding either rejecting or tabling complaints to agencies from any complainants who filed lawsuits against schools accredited by their agency.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OPE.

Request No. 52: All Department records concerning **ATS** 34 CFR §602 noncompliance since 2000.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OPE.

Request No. 53: All Department records concerning **NWCCU** 34 CFR §602 noncompliance since 2000.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OPE.

Request No. 54: All Department records of senior Department official decisions concerning **ATS** since 2000.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 55: All Department records of senior Department official decisions concerning **NWCCU** since 2000.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 56: The ATS standards or procedures that override *Mary R. v. B. & R. Corp.*, 149 Cal. App. 3d 308 (1983) as of March 14, 2006.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OPE.

Request No. 57: The NWCCU policies or standards that override *Mary R. v. B. & R. Corp.*, 149 Cal. App. 3d 308 (1983) as of March 14, 2006.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OPE.

Request No. 58: The ATS "exception" standards or policies in which schools have a business practice of overriding the law as of 1999.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OPE.

Request No. 59: All records between the Department and ATS concerning standards or procedures for *exceptions* since 1999.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OPE.

Request No. 60: All ATS standards or procedures that give ATS authority over March 14, 2006 settlement agreement involving Randy Chapel and Western Seminary.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OPE.

Request No. 61: All ATS standards or procedures that give NWCCU authority over March 14, 2006 settlement agreement involving Randy Chapel and Western Seminary.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OPE.

Request No. 62: All Department records concerning ATS' review of the March 14, 2006 settlement agreement involving Randy Chapel and Western Seminary.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS, FPCO.

Request No. 63: All Department records concerning NWCCU's review of the March 14, 2006 settlement agreement involving Randy Chapel and Western Seminary.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS, FPCO.

Request No. 64: All Department records involving the General Counsel decisions concerning the March 14, 2006 settlement agreement involving Randy Chapel.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS, FPCO.

Request No. 65: *The settlement agreement* involving Randy Chapel and Western Seminary that provides ATS has authority to make determinations regarding the settlement agreement or the validity of the settlement agreement.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths,

Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS, FPCO.

Request No. 66: *The settlement agreement* involving Randy Chapel and Western Seminary that provides NWCCU has authority to make determinations regarding the settlement agreement or the validity of the settlement agreement.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS, FPCO.

Request No. 67: Records of any ATS policies that gives schools authority to exceed or waive State law.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS, FPCO.

Request No. 68: Records of any ATS policies that gives schools authority to exceed or waive any decisional cases.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS, FPCO.

Request No. 69: Records of any ATS policies that gives schools authority to exceed or waive FERPA.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS, FPCO.

1 **Request No. 70:** Records of any ATS policies that gives schools authority to exceed or
2 waive Federal law.

3 **Personnel/Location:** Nancy C. Regan, Chuck Mula, Carol Griffiths,
4 Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne
5 Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt,
6 AAEU/ASL, an employee assigned to maintain or has knowledge
 concerning the record sought, which would be known by USDE, OGC,
 OPE, OOS, FPCO.

7 **Request No. 71:** Records of any NWCCU policies that gives schools authority to exceed
8 or waive State law.

9 **Personnel/Location:** Nancy C. Regan, Chuck Mula, Carol Griffiths,
10 Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne
11 Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt,
 AAEU/ASL, an employee assigned to maintain or has knowledge
 concerning the record sought, which would be known by USDE, OGC,
 OPE, OOS, FPCO.

12 **Request No. 73:** Records of any NWCCU policies that gives schools authority to exceed
13 or waive any decisional cases.

14 **Personnel/Location:** Nancy C. Regan, Chuck Mula, Carol Griffiths,
15 Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne
16 Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt,
17 AAEU/ASL, an employee assigned to maintain or has knowledge
 concerning the record sought, which would be known by USDE, OGC,
 OPE, OOS, FPCO.

18 **Request No. 73:** Records of any NWCCU policies that gives schools authority to exceed
19 or waive FERPA.

20 **Personnel/Location:** Nancy C. Regan, Chuck Mula, Carol Griffiths,
21 Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne
22 Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt,
23 AAEU/ASL, an employee assigned to maintain or has knowledge
 concerning the record sought, which would be known by USDE, OGC,
 OPE, OOS, FPCO.

24 **Request No. 74:** Records of any NWCCU policies that gives schools authority to exceed
25 or waive Federal law.

26 **Personnel/Location:** Nancy C. Regan, Chuck Mula, Carol Griffiths,
27 Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne
28 Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt,
 AAEU/ASL, an employee assigned to maintain or has knowledge
 concerning the record sought, which would be known by USDE, OGC,

OPE, OOS, FPCO.

Request No. 75: Records that give **WESTERN SEMINARY** authority to exceed or waive State law.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS, FPCO.

Request No. 76: Records that give **WESTERN SEMINARY** authority to exceed or waive any decisional cases.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS, FPCO.

Request No. 77: Records that give **WESTERN SEMINARY** authority to exceed or waive FERPA.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS, FPCO.

Request No. 78: Records that give **WESTERN SEMINARY** authority to exceed or waive Federal law.

Personnel/Location: Nancy C. Regan, Chuck Mula, Carol Griffiths, Kay Gilcher, Cheryl Oldham, Regina Miles, Margaret Spellings, Arne Duncan, Edgar Mayes, Kent Talbert, Charles Rose, Philip Rosenfelt, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS, FPCO.

Request No. 79: Records between DeNise.L.Hill@ed.gov and cwils60@hotmail.com

Personnel/Location: DeNise L Hill, Chuck Mula, Margaret Spellings, Kent Talbert, Cheryl Oldham, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 80: Records between donna.wittman@ed.gov and cwils60@hotmail.com

Personnel/Location: Donna Wittman, Chuck Mula, Margaret Spellings, Cheryl Oldham, Kent Talbert, AAEU/ASL, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE, OGC, OPE, OOS.

Request No. 81: Records that show *who* the “appropriate staff” member(s) was to whom Edgar Mayes forwarded Randy Chapel’s communications sent to Arne Duncan in the summer of 2010 (June – Aug).

Personnel/Location: Edgar Mayes, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE.

Request No. 82: Records that show *who* the “appropriate staff” member(s) was to whom Edgar Mayes forwarded Carol Nye-Wilson’s communications sent to Arne Duncan in the summer of 2010 (June – Aug).

Personnel/Location: Edgar Mayes, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE.

Request No. 83: Records that show *who* the “appropriate staff” member(s) was to whom Edgar Mayes forwarded on or before May 19, 2008, Carol Nye-Wilson’s letter dated 5-14-08 to Margaret Spellings facts regarding TWO AT-RISK STUDENTS of Western Seminary.

Personnel/Location: Edgar Mayes, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE.

Request No. 84: Records that show *who* the “appropriate staff” member(s) was to whom Edgar Mayes forwarded on or before February 26, 2008, John Hannon’s letter dated 2-26-08 to Margaret Spellings regarding complaints by Randy Chapel and Carol Nye-Wilson that Mr. Mula has not properly dealt with ATS and NWCCU.

Personnel/Location: Edgar Mayes, an employee assigned to maintain or has knowledge concerning the record sought, which would be known by USDE.

Notification of Ca Penal Code §§ 134, 135

82. Plaintiff has placed the government and USDE employees on notice that under California laws they are accountable regarding the following: “every person who knowing that any book, paper, record, instrument in writing, or other matter or thing, is about to be produced in

1 evidence upon any trial, inquiry, or investigation whatever, authorized by law, willfully destroys
2 or conceals the same, with intent thereby to prevent it from being produced, is guilty of a
3 misdemeanor” and “every person guilty of preparing any false or ante-dated book, paper, record,
4 instrument in writing, or other matter or thing, with intent to produce it, or allow it to be produced
5 for any fraudulent or deceitful purpose, as genuine or true, upon any trial, proceeding, or inquiry
6 whatever, authorized by law, is guilty of felony.”

7 83. Plaintiff has previously placed the USDE on notice concerning a claim for civil
8 conspiracy with materials for the Federal Torts Claims Act, dated July 2011, for himself, Carol
9 Nye-Wilson, Dale Wilson and Joel Chapel. Civil conspiracy that “renders each participant in the
10 wrongful act responsible as a joint tortfeasor for all damages ensuing from the wrong, irrespective
11 of whether or not he was a direct actor and regardless of the degree of his activity.”

12 84. Plaintiff further alleges given the subject matters contained within the records
13 sought by Plaintiff and third parties that continue to be covered up by USDE current and former
14 USDE employees, their willingness to act together, jointly, to evade production of records to
15 Plaintiff at all costs, to mangle records and create false paper trails, to conceal knowledge with the
16 intent to prevent the public and Plaintiff from knowing the full extent of the lack of enforcement
17 concerning 34 CFR § 602 et seq. by the USDE, the lack of enforcement concerning FERPA
18 violations under 20 U.S.C. 1232g, the Section 504 fraud, and most importantly the academic fraud
19 in which the USDE current and former employees are involved to the detriment of Plaintiff and
20 his family.

21 85. Plaintiff further alleges given the subject matters contained within the records
22 sought and the ongoing cover up by USDE current and former USDE employees, that due to Carol
23 Nye-Wilson’s FOIA requests (No. 11-01217-F), on July 29, 2011, the EDFOIA Manager
24 ultimately produced certain records after the USDE initially withheld those records for fraudulent
25 or deceitful purposes under the purported claim that those records either didn’t exist, or the wrong
26 records the USDE did produce as genuine or true were known by the USDE not to be the
27 responsive records for Carol Nye-Wilson’s FOIA requests. (Exhibit G).

28 86. Plaintiff further alleges given the subject matters contained within the records
sought by Plaintiff and third parties, and the ongoing cover up by the USDE and former USDE
employees, that the government will recklessly and wastefully use limited and hard-earned
American tax dollars to further their practices to cover up their negligence of duty and
malfeasance instead of quickly and cost-efficiently producing the requested records under the

1 FOIA. Rather, government will continue to fight against Plaintiff at all costs in order to keep from
 2 producing any records sought by Plaintiff and other 3rd parties, so that the public will not know the
 3 depths of the fraud that the government was involved in and continues in that same conduct by
 4 withholding records of evidence from Plaintiff.

5 87. Plaintiff further alleges the failure to produce records by the USDE will be seen
 6 unfavorably by the public against the Department and other government officials who have been
 7 made aware that the USDE is willfully withholding records in order to cover up negligence of
 8 duty and malfeasance. Failure to produce records that are on point to various issues, will be highly
 9 unfavorable for the Department and would be construed by the public, by a tier of fact, and by the
 10 media as a deliberate and willful cover up against the public welfare, since such acts to damage
 such records require forethought.

Chuck Mula

11 88. Plaintiff alleges Chuck Mula is a dirty employee. Chuck Mula is known to have
 12 falsely produced records on behalf of the USDE, claiming records, that are not even close in the
 13 date or subject matter of Carol Nye-Wilson's FOIA requests, and were produced by the EDFOIA
 14 Manager "because they were the only records near the date of the records requested," in order to
 15 cover up his own personal actions in the matter as well as the actions of other high-ranking
 16 employees of the USDE during the Republican Margaret Spellings administration. (Exhibit G).

17 89. Plaintiff alleges Chuck Mula is known to conduct his employment on behalf of the
 18 USDE with intentional deception against Plaintiff and his family and with the effort to cover up
 19 his acts of negligence of duty, errors and omissions by the AAEU/ASL/AG/USDE and the
 20 negligent actions of Margret Spellings and other employees during the Republican Margret
 21 Spellings administration. Plaintiff informed Arne Duncan and Philip Rosenfelt and in particular
 22 the USDE's Inspector General. Moreover, it was the USDE's own OIG, which warned that
 23 "AAEU has no documented supervisory review process and relies on individual specialists"
 24 evaluations and decisions for recognition recommendations. AAEU's reliance on individual
 25 specialists may impact the quality and thoroughness of the evaluations, as well as the integrity of
 26 the process." Chuck Mula was the specialist investigator assigned to Plaintiff's complaints and
 27 the chief employee of which can produce the largest portion of records sought, but refuses. Chuck
 28 Mula has a history of questionable ethical actions, which lack a moral compass, and have hurt the
 reputation of the AAEU/ASL/AG/USDE given he is of *questionable character*.

1 90. Plaintiff's mother fought to receive records from the USDE that Chuck Mula was
 2 intentionally withholding, since those records showed a pattern of underhanded and inequitable
 3 dealings by the government against Plaintiff, his mother and their families, which at this point has
 4 all but destroyed Plaintiff's future and life. Those records also demonstrated the USDE
 5 negligence of duty regarding 34 CFR § 602.22, among many other things sought in the Requests.

Margret Spellings

6 91. Plaintiff alleges efforts to reach and interview Margret Spellings have gone
 7 unanswered. It is only a matter of time before the media and 3rd parties file their own FOIAs in
 8 droves and request their own interview with Margret Spellings about her negligence of duty and
 9 malfeasance with taxpayer dollars to favor special interest groups against a student and his family.
 10 Chuck Mula, Nancy C. Regan, Carol Griffiths, Kay Gilcher and others are resisting *transparency*
 11 and they are conducting themselves disobediently to the President's policy on the FOIA. Plaintiff
 12 alleges it is embarrassing for the government concerning what the USDE has done and will do
 13 against students and their families. Chuck Mula, Nancy C. Regan, Carol Griffiths, Kay Gilcher
 14 and others have placed the personal interests of themselves, the personal interests of Margret
 15 Spellings and their former actions during the Republican Margret Spellings administration ahead
 16 of and at the expense of the public welfare and Plaintiff, and they will demand that the Department
 17 of Justice with use tax dollars to fight Plaintiff, in order to prevent Plaintiff and the public from
 18 learning what has gone on and the depth of involvement in the fraud by the Republican Margret
 19 Spellings administration.

Arne Duncan

19 92. Like so many other messes left during the Republican era, this mess has been left to
 20 be dealt with by Arne Duncan and his senior staff. Plaintiff alleges Arne Duncan has better things
 21 to deal with and concern himself with regarding American's educational needs, than Texas
 22 politicians and their dysfunctional view of how education should be administered in our nation.
 23 However, the entrenched and dysfunctional political machine in Washington would rather cover
 24 up fraud – most of all fraud that names so many *inside* the USDE and their ongoing underhanded
 25 dealings. At all times, Plaintiff alleges he has attempted to work with Arne Duncan and his
 26 administration, to find workable solutions to this mess, without resorting to a very public federal
 27 judicial relief against the USDE and the likelihood that the public being irked that their tax dollars
 28 are being used wastefully.

U.S. Attorney General Eric Holder

93. On August 3, 2011, the U.S. Attorney General Eric Holder stated "Dreamboard members allegedly used the power and anonymity of the internet to motivate others to commit their horrific acts of child molestation and child pornography trade." While U.S. Attorney General Eric Holder appears to believe child molestation and producing kiddy-porn is wrong, the U.S. Attorney General Eric Holder and various members of his office already were aware that the Republican Margret Spellings administration determined it is acceptable for students to earn an education and retain previously earned educational credits *only* if students cover up the horrific acts of child molestation that include a pastor finger-banging, exposing, and inserting his penis beside the vagina of an underage girl while offering "counseling" to her in his locked church office. While the U.S. Attorney General declared the use of the internet to propagate child pornography is wrong and so is motivating others to commit acts of child molestation, Mr. Holder has not declared that it is equally wrong of a seminary of all places to force a student to earn two masters degrees in *divinity and theology* – *only* under the conditions that the student must cover up a finger-banging penis pastor who exposed and inserted his penis beside a underage girl's vagina, and the student must further conceal Section 504 fraud, lies and misrepresentations to government by Western Seminary, FERPA violations, and other unlawfulness in order to earn an education. While the U.S. Attorney General Eric Holder told the world of successful charges against 72 people in the currently largest global probe of child pornography, the U.S. Attorney General Eric Holder and various office staff already knew the previous Republican leadership at the USDE believe and will enforce that it is acceptable to cover up negligence of duty, malfeasance, fraud, waste, and abusive acts by the government AND a finger-banging penis pastor who exposed and inserted his penis beside a underage girl's vagina, and the student must further conceal Section 504 fraud, lies and misrepresentations to government by Western Seminary, FERPA violations, and other unlawfulness in order to earn an education.

President Barack Obama

94. President Barack Obama became aware of the facts contained within this complaint due to the Plaintiff's letter to him dated April 4, 2011 (Exhibit C), the May 31, 2011 letter to him by Dr. Dale Wilson (Exhibit D), the June 27, 2011 letter to him from the Plaintiff (Exhibit B), the Federal Tort Claims Act administrative filing by the Plaintiff, Mrs. Carol Nye-Wilson and Dr. Dale Wilson, MAJ. U.S. Army, (Ret.) and Joel Chapel.

95. Plaintiff alleges he, Mrs. Carol Nye-Wilson and Dr. Dale Wilson, MAJ. U.S. Army (Ret.) have sought ways to resolve the issues with the USDE contained in this complaint in the

1 best possible light. Instead of engaging Plaintiff, Mrs. Carol Nye-Wilson and Dr. Dale Wilson,
 2 MAJ. U.S. Army, (Ret.) in a meaningful dialog, the USDE continues to be disobedient to
 3 President Barack Obama's policy regarding transparency by government through the FOIA.

4 96. Plaintiff alleges it is reasonable that the media and other 3rd parties seeking the
 5 same records will be denied, gamed or ignored by the USDE just as Plaintiff and other third
 6 parties have experienced. It is reasonable that President Barack Obama's policy regarding the
 7 FOIA will not be followed until the court forces the USDE to produce the requested records. To
 8 that end, the length that the USDE goes to withhold records, while using taxpayer money, should
 9 indicate the damning nature these records must be to the USDE and the actions or inactions taken
 10 during the Republican Margaret Spellings administration that prostituted the USDE to cover up
 her own failures and fraud.

11 **Damages Due to Withholding Records and Other Things**

12 97. Plaintiff alleges the USDE, will perpetrate numerous and unimaginable acts to
 13 attempt to camouflage its deeds that continue to damage Plaintiff and those around him at all
 14 costs. Regardless of Plaintiff's civil liberties and rights, USDE is hell-bent to inflict as much
 15 damage, pain and suffering upon Plaintiff as possible, and will continue tortuous acts to single out
 Plaintiff from all other Americans, until it is barred by federal judicial relief.

16 98. Plaintiff alleges that the government is well aware of the damage it has already
 17 inflicted upon Plaintiff due to the negligent or wrongful act or omission by the scandalous
 18 Republican Margaret Spellings administration and her unlawful support of Western Seminary,
 19 Steve Korch, Gary Tuck, Lynn Ruark, Rob Wiggins, Randy Roberts, the board of Western
 20 Seminary, ATS and NWCCU, since such support dovetails with Margaret Spellings' need to cover
 21 up her own unlawful and negligent actions that even the White House and Department of Justice is
 aware of at this point.

22 99. Plaintiff alleges government would rather bare its teeth at Plaintiff rather than
 23 honestly and forthrightly deal with the mess the USDE has caused in Plaintiff's life and the lives
 24 of those Plaintiff dearly loves and has now lost. Plaintiff notes that The White House, Department
 25 of Justice, Arne Duncan, Chuck Mula, and various other employees of USDE are well aware that
 26 the inaction, holdups by the USDE have directly impacted Plaintiff's marriage. Plaintiff's wife
 27 filed divorce papers on Feb 1, 2011 which USDE was made aware of, and to which Plaintiff's
 28 wife notes the protracted litigation to which Plaintiff suffered life time damage as a result in Aug
 2010 was to cause for the divorce. USDE already admitted the problems that can arise from

1 protracted litigation in 2008, yet at ever turn, continues such tortuous acts – as Plaintiff will not go
2 along with the Margaret Spellings fraud and records cover up. Plaintiff is being forced to suffer
3 and will continue to be forced to suffer, while USDE uses taxpayer money to fund such tortuous
4 acts against Plaintiff to keep the records from Plaintiff.

5 100. Plaintiff alleges the government doesn't care how many people related to Plaintiff
6 it hurts, just so long as USDE can continue what USDE has done. The USDE will continue to
7 suppress records from access by the FOIA in order to prevent any knowledge of their activities
8 from reaching the public and most of all Plaintiff, regardless of how much damage government
9 and USDE causes Plaintiff to sustain, and no matter what the cost both economically and in terms
of human life.

10 FIRST CLAIM FOR RELIEF:

11 VIOLATION OF THE FREEDOM OF INFORMATION ACT

12 101. Plaintiff incorporates by reference the allegations of all the foregoing paragraphs as
if fully set forth herein.

13 102. USDE has wrongfully withheld agency records requested by Plaintiff under the
14 FOIA and has failed to comply with the statutory time for the processing of the FOIA requests.
15 Upon receiving a FOIA request, an agency must determine within twenty court days of the date of
16 receipt "whether to comply with such request" and must "immediately notify the person making
17 such request of such determination and the reasons therefore, and of the right of such person to
18 appeal to the head of the agency any adverse determination." 5 U.S.C. § 552(a)(6)(A)(i).

19 103. Plaintiff has exhausted the applicable administrative remedies with respect to the
20 USDE's wrongful withholding of the requested records, even going so far as to failing to follow
21 Section 7 of the OPEN Government Act of 2007, Pub. L. No. 110-175, "agencies must assign an
22 individualized tracking number to requests that will take longer than **ten days** to process, and
provide that tracking number to the requester."

23 104. Plaintiff is entitled to injunctive relief with respect to the release and disclosure of
24 the requested documents because USDE continues to improperly withhold agency records in
25 violation of the FOIA. The Plaintiff will suffer irreparable injury from, and have no adequate
26 legal remedy for, the USDE's illegal withholding of government documents pertaining to the
27 subject of Plaintiff's FOIA request, unless the Court enters a preliminary and permanent
injunction against the USDE and orders the relief requested herein by Plaintiff.

28 SECOND CLAIM FOR RELIEF:

VIOLATION OF THE APA

105. Plaintiff incorporates by reference the allegations of all the foregoing paragraphs as if fully set forth herein.

106. USDE failure to disclose documents responsive to the Requests is a violation of the Administrative Procedures Act ("APA"), 5 U.S.C. §§ 701-706. USDE's failure in the matter is arbitrary, capricious, an abuse of discretion, not in accordance with the law and without observance of procedure required by law, all in violation of the APA.

107. In addition, or in the alternative, USDE's is aware that documents responsive to the Requests exist and some actually don't and in fact never existed to which it is covering up. USDE's conduct in respect to failing to admit the existence or non-existence of documents responsive to the Requests is arbitrary, capricious, an abuse of discretion, not in accordance with the law and without observance of procedure required by law, all in violation of the APA.

108. In addition, or in the alternative, USDE's is aware that 3rd parties have also sought the same documents Plaintiff has requested and has not acted on those requests, since such disclosure of documents responsive to 3rd parties requests would be public and available to Plaintiff. USDE's conduct in respect to failing to admit the existence or non-existence of documents responsive to 3rd party requests is arbitrary, capricious, an abuse of discretion, not in accordance with the law and without observance of procedure required by law, all in violation of the APA.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Court will do the following:

- A. Order USDE to make the requested records in their entirety available to Plaintiff free of charge due to USDE's willful withholding of documents from Plaintiff, as Court may enjoin an agency from withholding agency records and order the production of improperly held agency records;
- B. Enter a preliminary and permanent injunction against the USDE ordering the relief requested herein;
- C. Declare that the USDE failed to disclose the records requested by Plaintiff is unlawful;
- D. Award Plaintiff his litigation costs and reasonable attorney's fees incurred in this action pursuant to 5 U.S.C. §§ 552(a)(4)(E) & 552(a)(g)(3)(B), and other applicable law;

- 1 E. Plaintiff seeks the Court to punish each and every USDE employee responsible for
2 noncompliance as provided by 5 U.S.C. § 552(a)(4)(G);
- 3 F. Plaintiff seeks a specific finding of fact that USDE actions are arbitrary and capricious,
4 abuses of discretion, or otherwise not in accordance with law, in violation of APA §
5 706(2)(A). Plaintiff requests these matters be referred to the Merit System Protection
6 Board for investigation as provided by 5 U.S.C. § 552(a)(4)(F);
- 7 G. Plaintiff seeks the Court to maintain jurisdiction over this action until, in respect to the
8 Requests, USDE is in compliance with FOIA, APA, and every order of this Court;
- 9 H. Order USDE to stop their ongoing campaign and obscene habitual need to continue
10 tortuous actions against Plaintiff and his family and find some other American to screw
11 over; and
- 12 I. Grant such other relief as the Court may deem just and proper.

13 Dated: August 31, 2011

Respectfully submitted,

14 By: /s/ Randy Chapel

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